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Joint Committee on Administrative Rules

ANNUAL REPORT
TO THE ILLINOIS GENERAL ASSEMBLY

1984

JOINT
COMMITTEE
ON
ADMINISTRATIVE
RULES



Joint Committee on Administrative Rules

ANNUAL REPORT
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Joint Committee on Administrative Rules

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JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

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DORIS C. KAPIEL

Honorable Members of the 84th General Assembly

Ladies and Gentlemen:

I respectfully submit the 1984 Annual Report of the Joint Committee on Administrative Rules for your consideration, pursuant to Section 7.10 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par 1007.10). Requirements provide that this report contain the "findings, conclusions and recommendation, including suggested legislation," developed by the Committee, each of which has been so noted within.

It has been an honor to serve as the Chairman of the Joint Committee. As one of the original members of the Joint Committee I have witnessed the maturation of the legislative oversight process in Illinois, and I am proud of the quality bipartisan reviews of agency rules, which has become the trademark of the Joint Committee's work.

As members of the General Assembly it is our duty to oversee the implementation of the laws we pass, and the Joint Committee is one mechanism we can and should utilize in meeting this responsibility. The efficiency of the Committee's oversight process has resulted in agencies becoming increasingly aware of the necessity to implement statutes in accordance with the original legislative intent. Overall, administrative rules review has become a major tool of the legislative oversight process.

The past year saw the greatest level of rulemaking activity by agencies and the largest number of objections ever issued by the Committee. The detailed statements of objection and the suggested legislation presented in this

report are representative of both the depth and the breadth of the Committee's review of agency rules.

In addition, 1984 proved to be a banner year for the passage of Joint Committee legislation. The members of the Committee would like to thank all of you who either supported or sponsored our recommended bills. The success of our legislative agenda is essential as we seek to strengthen and develop this oversight role.

As Chairman of the Joint Committee I am asking all members of the 84th General Assembly to take an active part in this vital oversight function. We welcome your suggestions and comments on specific agency rules and on the development of the role of the Joint Committee. Only as each of us as legislators becomes concerned and involved in the oversight process can the Committee, acting on your behalf, remind the unelected segment of Illinois government that it, too, is accountable.

Respectfully,

A handwritten signature in cursive script that reads "Monroe Flinn".

Representative Monroe Flinn
Chairman

1984 ANNUAL REPORT

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SECTION ONE

COMMITTEE ACTIVITIES

Introduction

This, the seventh annual report of the Joint Committee on Administrative Rules, details the activities and recommendations of the Committee throughout 1984. The Statements of Objection and Recommendation as well as the legislative agenda developed by the Committee are indicative of the role which the Joint Committee plays in the oversight of policy-making in Illinois.

Highlights of the Committee's activities for 1984 are reviewed in this narrative section of the report. The approach and results of each of the programs and projects of the Committee are discussed, along with an outline of the functions and organization of the Committee. To those unfamiliar with the oversight function performed by the Joint Committee, this introduction should prove to be particularly useful.

Basic Function

The role of the Joint Committee is best described in Section 7.04(1) of the Administrative Procedure Act: "The function of the Joint Committee shall be the promotion of adequate and proper rules by agencies and an understanding on the part of the public respecting such rules." This statement establishes two mandates for the Committee's activities: (1) working with State agencies to improve rulemaking and rules, and (2) promoting public understanding of the rulemaking process and of the rules themselves.

Passed in 1975 without the existence of a mechanism for uniform oversight, the Illinois Administrative Procedure Act was amended in 1977 (Public Act 80-1035; House Bill 14), to establish the Joint Committee on Administrative Rules. The creation of the Committee was in response to the need for systematic oversight of the rulemaking process as well as direct legislative involvement.

The mandate for a systematic process for the oversight of State agency rulemaking is met by several integrated review programs, each of which is performed by the Committee. These programs are summarized in the following paragraphs. Additional information concerning each of the programs can be found throughout the various sections of this report.

1. REVIEW OF PROPOSED RULEMAKING. Each new rule, amendment to an existing rule and repeal of an existing rule proposed by a State agency is reviewed by the Committee. This review, which must be accomplished within a strict 45-day time period, is primarily intended to ensure that new rules are within the agency's statutory authority and are legally proper.

2. FIVE YEAR REVIEW OF ALL EXISTING RULES. The Illinois Administrative Procedure Act requires the Committee to conduct a systematic review of all current rules of all State agencies, regardless of when the rules were adopted. This program complements the review of proposed rules by providing for an examination of rules which have been in effect for a long time and may no longer be serving the purpose for which they were intended. The primary purpose of this type of review is to bring the existing rules up-to-date and to reduce or eliminate areas of conflict or overlap between rules.

3. REVIEW OF EMERGENCY AND PEREMPTORY RULEMAKING. To better monitor the rulemaking process, the Committee also reviews emergency and peremptory rules which agencies adopt. Since emergency and peremptory rules are not required to be published for public comment, the Committee carefully reviews these rules to ensure that they comply with the constraints that are placed upon such rules as specified by the Illinois Administrative Procedure Act.

4. COMPLAINT REVIEWS. The Committee frequently receives complaints from the public about specific rules of State agencies. These complaints typically contend that the rule is unauthorized or unreasonable, or has a serious impact on the affected public. Although formal objections based on the complaints are not usually required, the Committee attempts to answer the

questions which have been raised about the rules to focus attention on issues which are of particular concern to the public.

5. PUBLIC ACT REVIEW. To supplement these programs which review agency rules, the Committee also reviews each new public act for its possible affect on rulemaking. The Committee informs agencies when it finds that a new public act may require rulemaking. Then, it monitors the agency's response and actions to adopt the necessary rules. This review is intended to help ensure that acts passed by the legislature are implemented properly and translated into rules whenever necessary. In a broad sense, each of the Committee's programs is intended to facilitate coordination between the legislative and administrative processes in state government. These programs reflect a growing concern by the legislature

Committee Members

Members of the Joint Committee are appointed by House and Senate leaders for a term of two years. Appointments are made in January, with officers being elected by the members of the Committee in February of each odd numbered year. Sections 1-5 of the Legislative Commission Reorganization Act outlines these procedures as well as those to be used for the filling of Committee vacancies. Committee vacancies are to be filled by the legislative leader who appointed the individual whose position has become vacant.

The involvement of the members of the Joint Committee in the day-to-day operations of the Committee's staff has proven to be essential to the overall effectiveness of the oversight process. Legislative oversight activities, more frequently than not, take a back seat to the more visible and personally rewarding issues dealt with by the legislator. Nevertheless, legislators have found that in utilizing this oversight method they are better able to represent their constituents while having an impact on government operations which directly affect the people of this State.

Legislators who were appointed or reappointed to the Committee during 1984 are:

Appointed by the President of the Senate:

Senator Arthur S. Berman (2nd District, Chicago)
Senator Vince Demuzio (49th District, Carlisle)
Senator Jeremiah E. Joyce (14th District, Chicago)
Senator Richard Luft (46th District, Pekin)

Appointed by the Senate Minority Leader:

Senator Prescott E. Bloom (47th District, Peoria)
Senator Laura Kent Donahue (48th District, Quincy)
Senator Bob Kustra (28th District, Glenview)
Senator John W. Maitland (44th District, Chicago)

Appointed by the Speaker of the House:

Representative Woods Bowman (4th District, Evanston)
Representative John J. Cullerton (7th District, Chicago)
Representative Monroe L. Flinn (114th District, Cahokia)
Representative Ellis B. Levin (5th District, Chicago)

Appointed by the House Minority Leader:

Representative Carl E. Hawkinson (94th District, Galesburg)
Representative A.T. "Tom" McMaster (73rd District, Galva)
Representative Myron J. Olson (70th District, Dixon)
Representative Kathleen Wojcik (45th District, Schaumburg)

The officers of the Committee handle the Committee's business operations and serve as the Personnel Committee for evaluating employee performance. Officers serving the Committee through January 1985 were:

Chairman:	Representative Monroe Flinn
First Vice-Chairman	Senator Arthur S. Berman
Second Vice-Chairman	Senator Prescott E. Bloom
Secretary	Representative Myron Olson

Staffing and Organization

The staff of the Joint Committee is headed by an Executive Director selected by the members of the Committee. The Executive Director is charged with the overall development, management, and operation of the staff of the Committee. The Director is assisted by two Deputy Directors, one which oversees the Rules Review and Compliance Division, and one which oversees the Policy, Planning and Administration Division. Approximately one-half of the professional staff are attorneys, the remainder are subject area specialists with training disciplines such as social services, administration, policy analysis, political studies and public administration. This multi-disciplinary background of staff members provides a balanced and thorough review of proposed and existing rules.

The Rules Review and Compliance Division is responsible for the review of proposed and existing rules. The Policy, Planning and Administration Division investigates complaints, develops and monitors legislation, compiles special Committee projects and plans, and implements Committee organizational policies and objectives.

A significant reorganization of the staff and structure of the Joint Committee took place in the latter part of 1982. The changes were designed to increase efficiency in the review of agency rules and to eliminate overlap in the substantive review staff sections. The current organizational structure, as illustrated in TABLE ONE on page 6, helped resolve the duplication problems. The new structure provides for five basic subject area groups with reviewers responsible for both proposed and existing rules classified under their particular subject area. In addition to eliminating overlap, the new structure fosters an increase in reviewer expertise in the assigned subject area. A narrower focus affords the reviewer the opportunity to follow developments in federal or state legislation and regulation which are related to their assigned areas. Efficiency and effectiveness have improved greatly among staff operations thanks to this organizational change.

JOINT COMMITTEE ON ADMINISTRATIVE RULES



Accomplishments During 1984

Established in its role as a vehicle for legislative oversight of agency policy-making, the Joint Committee remains committed to improving public awareness regarding rulemakings and rules. Each of the Committee's basic functions are performed with the objectives of the Illinois Administrative Procedure Act in mind and with a sensitivity to the capabilities of the agencies and to the needs of the public. These efforts are demonstrated by examining the following achievements of the Committee for 1984.

1. Completion of the codification of all state rules.

Pursuant to Section Seven of the Illinois Administrative Procedure Act, "All rules on file with the Secretary of State and in effect on October 1, 1984, shall be in compliance with the uniform system for the codification of rules." Having passed that date, the Administrative Code Unit of the Secretary of State has completed the indices to the Illinois Administrative Code, which contain all rules that were filed and in effect as of January 1, 1985.

Throughout the codification process the Committee advised and assisted the Illinois State Library, the Administrative Code Unit and the Legislative Information System in accomplishing the codification of these rules. The codification process has yielded rules which are more accessible to those affected by them. The topical organization of the new Illinois Administrative Code facilitates easy location of rules of interest, regardless of whether the government agency regulating the area is known. In addition, the standardized citation system should alleviate confusion regarding the referencing of rules.

Due to the combined efforts of the Joint Committee, the Administrative Code Unit, and the Legislative Information System, the goals of the codification process have been met. The prompt completion of the new Illinois Administrative Code provides an invaluable tool for all those affected by the rules and regulations of State agencies.

2. The Reg-Flex Report takes on a new name and a new face.

In its continuing effort to keep small business abreast of the changes in Illinois regulation and regulatory trends, the Joint Committee has revamped its weekly Reg-Flex Report. The report, now known as Illinois Regulations, is issued on a weekly basis to more than 300 individuals, businesses or associations affected by rules that impact small business. See page 55 for more information concerning this publication.

3. Completion of the review of rules under the five year review program.

The review of existing rules and regulations pertaining to the Illinois Racing Board were completed during 1984. The final report of the five-year review of rules classified under "Records and Information" was presented and discussed at the January, 1985, meeting of the Committee. The "Public Utilities Report" has been presented in finalized form and is now awaiting discussion by the Committee. Statements of objection and recommendations, as well as some legislation stemming from these reviews are discussed in more depth on pages 198-200 and 211. These results confirm the necessity for a systematic subject-by-subject five-year review process.

4. Continuation of a vigorous on-going review of all new rules proposed by State agencies.

During 1984, the Committee examined a total of 704 proposed, emergency, and peremptory rules, examining various issues dealing with legal authority, clarity, and general propriety of the rules. Most of these issues were resolved by the agency agreeing to make appropriate changes. In some cases however, it was necessary for the Committee to issue formal statements of objection and/or recommendation to the rules. The cooperation between agencies and the Committee in the examination of rules has made for an effective review procedure, despite the sometimes cumbersome workload and limited time.

Public Acts Implemented in 1984 Amending the Illinois Administrative Procedure Act

The 1984 spring session of the Illinois Legislature produced several changes to the Illinois Administrative Procedure Act (IAPA). The reorganization of the Joint Committee, along with substantive and revisory changes to the Act are discussed in the following paragraphs.

The Legislative Commission Reorganization Act, P.A. 83-1257, became effective August 15, 1984, creating the Joint Committee on Legislative Support Services. The Act amended the IAPA at Section 7.02 by deleting all of subsections (b), (d), and (e), and all of subsection (a) after the introductory phrase, "The Joint Committee on Administrative Rules....", adding "is established as a legislative support agency subject to the Legislative Commission Reorganization Act of 1984." The deletions to the IAPA were those provisions that had once provided for the individual organization and timetable of the Committee. These guidelines are now uniformly established for all legislative support service agencies under the Legislative Commission Reorganization Act.

Public Act 83-1341 authorizes the Illinois Department of Commerce and Community Affairs to create a Business Assistance Office (BAO) to aid in the development of new and existing enterprises in Illinois through the development and coordination of information and technical support. P.A. 83-1341 amended Section 4.03 of the Illinois Administrative Procedure Act to require that the newly created BAO analyze the impact of State regulations on small business, and in conducting its review of rules, to require the Joint Committee to consider whether the agency has considered alternatives that would minimize the economic impact of the regulation on small business.

P.A. 83-1341 also amended Section 7.06 of the IAPA, to require that the Joint Committee, during its five-year review, evaluate and analyze all State forms developed or revised after the effective date of the Act, September 7, 1984. This review shall consider the burden of compliance for small business.

P.A. 83-1387 (H.B. 2466), sponsored by Joint Committee members Bowman, Flinn and Olson, amended the IAPA at Section 5.04. The change

permits a rule to provide for its automatic repeal on a date specified in the rule. The automatic repeal is effective only after it has been published in the Illinois Register not less than 30 nor more than 60 days prior to the effective date of the repeal. This public act clarifies the conditions under which an automatic repealer will be effective.

In addition P.A. 83-1387, effective January 1, 1985, amended Section 4(c) of the IAPA to delete the "actual knowledge" provision. Section 4(c) provided that "[n]o agency rule is valid or effective against any person or party, nor may it be invoked by the agency for any purpose, until it has been made available for public inspection and filed with the Secretary of State as required by this Act." During the course of the Committee's Five Year Review Program a potential problem regarding the use of the "actual knowledge" provision to circumvent the requirements of the Illinois Administrative Procedure Act was discovered. Since that time, this problem became a reality. The Illinois Department of Public Aid argued to the Illinois Supreme Court, in the case of Senn Park v. Miller, 118 Ill. App. 3d 504, 455 N.E.2d 153 (1983), that the "actual knowledge" provision of the IAPA precludes a challenge to an agency policy which has not been promulgated as a rule by persons who have actual knowledge of the policy. This argument had a potential negative impact upon the IAPA by preventing a challenge to any agency policy not promulgated as a rule, because to effectuate a challenge one must have knowledge of the policy in question. This interpretation would have allowed agencies to circumvent the public notice and comment provisions of the IAPA completely. With the deletion of this provision, the problem has been remedied.

Finally, P.A. 83-1453, effective January 1, 1985, sponsored by Representatives Olson and Flinn, amended Section 4 of the Illinois Administrative Procedure Act to provide that no agency shall assert the invalidity of a rule adopted pursuant to the IAPA upon which an opposing party has relied. This public act was the result of an Illinois appellate court's holding in the case of Illinois Bell Telephone Company v. Allphin, (60 Ill. 2d 350, 326 N.E. 2d 737 (1975)). In that case, the court held that the Illinois Department of Revenue was bound by its own rules as long as they remained in effect. The court's holding was based upon the theory of

detrimental reliance. This public act does not preclude an agency from repealing its rules, but merely requires than an agency follow the proper repeal procedures, and prohibits an agency from unilaterally declaring validly adopted rules to be invalid.

Report Overview

This report has been divided into four basic sections. The first section, pages 1-72, contains a narrative review of the Committee activities for the year 1984. Each of the Committee's major functions and programs, as well as various special projects have been outlined in this section. Also included is an analysis of a number of court cases and Attorney General's opinions which interpret the Illinois Administrative Procedure Act or affect the rulemaking process.

Section two of this report, pages 75-103, contains a statistical summary of the Committee's activities as well as rulemaking action taken by State agencies during 1984. Tables are included which present breakdowns by agency and the type of rulemaking action that was taken. Section two serves as a good indicator of the activities and workload of the Joint Committee as well as the pattern of general rulemaking.

Summaries of the formal statements of objection which were issued by the Committee during 1984 can be found in Section three, pages 105-203. These statements which are published in the Illinois Register at the time they are issued, are strictly advisory in nature, and often result in significant changes in the rules. The statements are organized by agency along with information concerning the history of the rulemaking and the objection.

Section four, which begins on page 207, contains the legislation recommended by the Committee for consideration by the legislature during the 1984 Appropriation Session of the 83rd General Assembly. The majority of these bills are the result of reviews of agency rules which uncovered statutory difficulties. A discussion and summary of each bill is presented.

REVIEW OF PROPOSED RULEMAKING

The Joint Committee reviewed 604 proposed rulemakings by state agencies during 1984. An average of more than 50 proposals was considered at each of the Joint Committee's monthly meetings. The Committee issued 266 formal objections to 128 of the proposals, and 78 recommendations to 60 proposed rulemakings. The Committee's review resulted in changes to virtually every proposal. These changes varied from minor drafting and editing revisions to extensive, substantive rewrites of agency rules.

1984 marked the greatest level of rulemaking activity in the history of the Joint Committee. This section discusses the general rulemaking process, the criteria used by the Committee in evaluating rules, and a summary of some of the more significant objections issued by the Committee in 1984.

General Rulemaking Process

Section 5.01 of the Illinois Administrative Procedure Act governs the general rulemaking of state agencies. General rulemaking is all rulemaking which is not: (1) related solely to internal agency management, (2) an emergency rulemaking as defined by Section 5.02 of the Act, or (3) a peremptory rulemaking as defined by Section 5.03 of the Act.

Agencies are required to give at least 45 days notice of their intended rulemaking to the general public. This period of time is referred to as the "first notice" period. The first notice period begins on the first day that notice of a proposed rulemaking appears in the Illinois Register.

Section 5.01(a) of the Act sets forth specific requirements governing how first notices must appear in the Illinois Register. Among other things, the agency is required to publish the full text of the proposed rule or the material to be repealed. There are also requirements relative to public comment which the agencies must abide by when submitting first notice material for the Illinois Register.

The primary purpose for the first notice period is to provide an opportunity for comment by the public when they are affected by a proposed rulemaking. Each first notice contains information as to the time, place and manner in which persons may comment upon the rulemaking. Agencies are required to consider all public comment received within the first 14 days after the first notice period has commenced. In addition, agencies are required to consider all comments received pursuant to requests to comment submitted within the fourteen day time period provided that such comment is received in writing within a reasonable time period.

Section 5.01 of the Illinois Administrative Procedure Act directs agencies to hold a public hearing whenever the agency finds that a public hearing would prompt the submission of public comment which might not otherwise be submitted. In addition to the agency-initiated public hearing, the Act requires agencies to hold a public hearing whenever the agency receives a request for a hearing within 14 days of the publication of the notice of proposed rulemaking, from 25 interested persons, an association representing at a minimum 100 persons, the Governor, the Joint Committee on Administrative Rules, or a unit of local government.

Following the expiration of the first notice period, agencies are required to provide a "second notice" period. The second notice period allows for the review of the proposed rulemaking by the Joint Committee. This period extends to a maximum of 45 days.

The agency proposing the rulemaking is required to present to the Committee a written request for commencement of the second notice period. The specific form of this notice is set forth in Section 5.01(b) of the Act. The second notice period commences on the date that this formal second notice is received, and accepted as being in proper form, by the Committee.

The Committee will not accept a second notice document unless it contains the following information: (1) the text and location of any changes in the proposed rulemaking made during the first notice period; (2) a final regulatory flexibility analysis of the effects of the rulemaking on small businesses; (3) an analysis of the economic and budgetary effects of the

proposed rules, if one is requested by the Committee within 30 days of the commencement of first notice; (4) an evaluation of all comments regarding the proposed rulemaking received during the first notice period; (5) an analysis of the anticipated effects of the proposed rulemaking, and (6) a justification and rationale for the proposed rulemaking.

Following the acceptance of the required second notice submissions, the review of the proposed rules by the Committee begins in earnest. The review of the proposed rules is based upon the criteria set forth in Sections 220.900 and 220.950 of the Operational Rules of the Committee.

Pursuant to the review criteria summarized below, the Committee develops written questions based upon a review of the rules. The agency responses to these questions are evaluated, and any responses which do not appear to adequately address the questions originally raised will be presented in the form of recommendations for Committee action. If the Committee finds that all issues and problems are satisfactorily resolved, the Committee issues a "Certification of No Objection" which permits agencies to adopt the proposed rules.

In the event that recommendations for Committee action are adopted by the Committee, the agency has 90 days in which to respond to objections. The agency may modify the rules in response to the Committee's objection, refuse to modify the rules, or withdraw the proposed rules. Failure of an agency to respond to the Committee's objection within 90 days results, by operation of law, in an automatic withdrawal of the proposed rules. Both the Committee's statement of objection, and the agency's response to the objection are published in the Illinois Register. Agency responses to Committee recommendations, along with evaluations of those responses, are presented to the Committee for review at a scheduled meeting of the Committee subsequent to publication of the agency response in the Illinois Register. Agencies are free to adopt rules subsequent to a response to a Committee recommendation, provided the 45 day second notice period has expired.

Review Criteria

The Committee utilizes the criteria for review listed in Section 220.900 of the Committee's Operational Rules, see Appendix B. The factors which the Committee considers during their systematic review of the proposed rulemaking can be summarized as follows:

1. Legal authority for the proposed rulemaking.
2. Compliance of the proposed rulemaking with legislative intent and statutory authority.
3. Compliance with state and federal constitutional requirements and other law.
4. Inclusion of adequate, clear standards and criteria for each exercise of discretionary power.
5. Presence of a statement of justification and rationale for the proposed rulemaking.
6. Consideration of the economic and budgetary effects of the proposed rulemaking.
7. Clarity of the language of the proposed rulemaking.
8. Presence of redundancies, grammatical deficiencies and technical errors in the proposed rulemaking.
9. Compliance with the requirements of the Illinois Administrative Procedure Act.
10. Compliance with the requirements of the Secretary of State's Administrative Code Unit.
11. Compliance with additional requirements imposed by state and/or federal laws.
12. Compliance with the agency's rulemaking requirements.
13. Agency responsiveness to public comments received concerning the rulemaking proposal.
14. Compliance with the Regulatory Flexibility requirements contained in Section 4.03 of the Illinois Administrative Procedure Act.

Significant Objections

All statements of objections and recommendations which were issued by the Committee during 1984 have been summarized in Section three of this report, see pages 105-203. Several of the objections are also discussed here due to their especially salient nature.

Illinois Educational Labor Relations Board

Several objections and recommendations were issued in 1984 to the rules of the Illinois Educational Labor Relations Board. In September, the Committee voted to recommend that the Board seek legislation to amend Section 15 of the Illinois Educational Labor Relations Act to specify that employees may file unfair labor practice proceedings in order to make the Act consistent with Section 1120.20(a) of the Board's rules entitled "Unfair Labor Practice Proceedings."

Section 1120.20(a) of the Board's rules states that "[a]n unfair labor practice charge may be filed with the Board by an employer, an employee organization or an employee." Section 15 of the Illinois Educational Labor Relations Act states that employers and labor organizations may file unfair labor practices charges. Because employees are not included in the statutory mandate, the Board exceeded its statutory authority by extending standing to employees. The question of whether, under the Act, employees can file unfair labor practice charges is currently being litigated in the Illinois circuit courts. In order to dispel any further confusion regarding this issue, the Committee felt that it was necessary to clarify the Act to specifically allow employees to file such charges.

The Committee also objected to the Educational Labor Relations Board's rules entitled "Impasse Resolution." The objections were based upon the fact that Sections 1130.20 and 1130.30 of the proposed rules violate Section 12 of the Illinois Educational Labor Relations Act, by allowing mediation to be invoked by newly certified bargaining units other than in the 45 day period prior to the beginning of the forthcoming school year. At the October 18,

1984 meeting, the Joint Committee voted three objections to the proposed rulemaking and one recommendation for legislation. The Board responded to the Joint Committee's objections by refusing to modify the rules. In lieu of the Board's refusal, the Joint Committee issued four recommendations directing Committee staff to draft legislation clarifying the Board's rules on "Impasse Resolution".

In addition, the Committee objected to the existing rules of the Illinois Educational Labor Relations Board entitled "Representation Proceedings" because the Board's adopted rules contained substantive changes which were made after the commencement of the second notice period which were not made in accordance with the requirements of Sections 5.01(b) and 7.06(d) of the Illinois Administrative Procedure Act.

Section 5.01(b) of the Illinois Administrative Procedure Act states, in part, "After commencement of the second notice period, no substantive change may be made to a proposed rulemaking unless it is made in response to an objection or suggestion of the Joint Committee." Section 7.06(d) of the IAPA prescribes the procedure to be used by an agency which elects to modify a proposed rule to meet a Joint Committee objection. It requires the agency to make such modifications as are necessary to meet the objection and to resubmit the rule to the Joint Committee. In addition, the agency must submit a notice of its election to modify the proposed rule to the Secretary of State for publication in the Illinois Register.

Representatives of the Educational Labor Relations Board were present when the objection was issued by the Committee on August 23, 1984. Coincidentally, that day was the last day of the second notice period. On August 24, 1984, one day after the expiration of the second notice period, the Board filed its rule entitled "Representation Proceedings" with the Secretary of State for adoption. The notice stated that no objection had been issued by the Committee apparently due to the fact that the Board had not received the formal "Certification of Objection" despite the fact that representative of the Board were present when the objection was issued. The Board should have been in receipt of the Committee's formal notice of

objection by the date in which the "Notice of Adopted Rule" was to appear in the Illinois Register.

Therefore, with that knowledge, the Board persisted in its publication of the "Notice of Adopted Rule" misleading the public in regard to the Joint Committee's action on the rule. In addition, the Board stated in its response to the Committee that it did modify its rule in an attempt to meet the Joint Committee's objection. Thus, the adopted rule contained a modification to meet an objection, while the "Notice of Adoption" indicated that no objection had been made.

In conclusion, the Board's actions: (1) gave the public the impression that no Joint Committee objection had been issued to the rule, when in fact the Committee had objected; (2) modified the rule to meet the objection which was never published in the Illinois Register; (3) failed to resubmit the rule to the Joint Committee with the modifications which it made to meet the objection; and (4) erroneously notified the public that the Board was refusing to modify the rule in response to the objection, in violation of the IAPA.

Department of Labor

In September of 1984, the Committee issued 13 objections to the Department of Labor's proposed rules entitled "Toxic Substances Disclosure to Employees." These rules, initially published in the June 1, 1984 edition of the Illinois Register, were in response to the Toxic Substances Disclosure to Employees Act (Ill. Rev. Stat. 1983, ch. 48, pars. 1401 et seq.). The Act requires the Department to promulgate rules governing the procedures by which the Toxic Substance List is promulgated, updated and revised, as well as the specific procedures employees and manufacturers must follow to implement the Act.

These rules generally provide procedures by which the Illinois Toxic Substances Disclosure to Employees Act, commonly known as the "Illinois Right to Know Law," will be implemented. These rules replaced the emergency rules which were published in the Illinois Register on August 14, 1984 and were already in effect. The objections are summarized as follows:

Lack of Statutory Authority

The Joint Committee issued seven objections to the proposed rules on Toxic Substances Disclosure to Employees. The Committee objected to Sections 205.230(b), (c), (d), (e), (h), (2), (3), (4), as well as 205.310(f) due to the fact that the Department of Labor lacked the statutory authority to exempt sealed packages containing toxic materials from the labeling provisions of Section 8 of the Toxic Substances Disclosure to Employees Act. The Department also lacked the statutory authority to exempt small businesses and employers who have made a "good faith effort" to obtain labels from the labeling provisions of the Act.

In addition, the Committee objected because the Department lacked the statutory authority in Section 205.310(i), to revoke an exemption granted by Section 6(b), as well as the authority to place substances included in Material Safety Data Sheets on a "Proposed Revised Toxic Substances List" required by Section 5 of the Toxic Substance Disclosure to Employees Act (Section 205.270(e)). The final objection based upon lack of statutory authority was issued to Section 205.270(d) of the proposed rules. The Department lacked the authority to establish a Technical Advisory Panel to recommend additions to or deletions from the Toxic Substance List.

In each instance, the Department of Labor refused to modify the proposed rulemaking to meet the objections of the Joint Committee. The Department cited Sections 16 and 18 of the Toxic Substances Act as its statutory authority. In addition, the Department stated that it would discuss the statutory authority issues with the Toxic Substances Advisory Committee and with legislators in an effort to eliminate any ambiguity.

Lack of Standards

The Joint Committee issued two objections to the Department of Labor's rule entitled "Toxic Substances Disclosure to Employees due to a lack of standards within the rules. The Committee objected to Section 205.230(i) because the proposed rule failed to provide standards for the exercise of agency discretion as required by Section 4.02 of the Illinois Administrative

Procedure Act in determining what common names will be accepted by the Department in identifying toxic substances for labeling purposes. The Committee also objected to Section 205.310(i) because the proposed rule failed to include standards by which the Department determines whether or not laboratories in which a toxic substance is used are under the direct supervision of technically qualified individuals.

In both instances, the Department of Labor failed to modify their rules to meet the objections of the Joint Committee. The Joint Committee voted to publish a "Notice of Failure to Remedy Objection" in the Illinois Register, and recommended that legislation be drafted by Committee staff to require the Department of Labor to promulgate the standards to be used when determining whether a laboratory is under the "direct supervision of a technically qualified individual" and therefore, exempt pursuant to Section 205.310(i).

Legislative Intent Disregarded

The Committee issued three objections to the proposed "Toxic Substances Disclosure to Employees" rules based upon violation of the legislative intent of the Toxic Substances Disclosure to Employees Act. Specifically, objections were issued to the following Sections: (1) 205.310 (b), because by not exempting "special waste" from the Toxic Substances Disclosure to Employees Act, the Department of Labor had violated the legislative intent of the Act; (2) Section 205.220(b), because the procedures for submission of Material Safety Data Sheets contained therein violated the legislative intent of the Toxic Substances Disclosure to Employees Act; (3) Section 205.250, due to the fact that the rule violated the intent of the Act by not providing an extension of time, under certain circumstances, for initial training of employees routinely exposed to toxic substances.

In each instance, the Department modified its language to meet the objections of the Joint Committee.

Department of Alcoholism and Substance Abuse

The Joint Committee at its November 8, 1984 meeting voted fifteen

objections to the proposed rules of the Department of Alcoholism and Substance Abuse governing fiscal and programmatic requirements for Department-funded alcoholism and substance abuse treatment.

The Department responded to the objections by refusing to modify its rules to meet objections one, four, eight and fourteen, and by modifying its rules to meet the remaining eleven objections. A summary of the specific objections, and agency responses are as follows:

Lack of Standards

The Joint Committee issued thirteen objections to the rules of the Department of Alcoholism and Substance Abuse because contrary to Section 4.02 of the Illinois Administrative Procedure Act, the Department has not set forth adequate standards within its rules. Specifically, the Joint Committee issued objections to the following sections:

Objection One. The Committee objected to Section 2030.1010(2) because the Department had not set forth standards by which it determined whether to suspend or terminate an award for cause. The rule as proposed, simply stated that the Department may suspend or terminate where a provider materially fails to comply with the terms of an award, or with the Department's rules. The Committee recommended that a "Notice of Failure to Remedy Objection to Proposed Rulemaking" be published.

Objection Two. An objection was issued to Sections 2030.1010(b) and (c) because the Department had not clearly and precisely set forth the standards by which it will suspend or terminate an award for failure to submit any report required by Part 2030, or when it will withhold further payments or prohibit the Provider from incurring additional obligations of award funds during a period of suspension. Despite the Department's attempt to remedy the objection, a recommendation for the publication of a "Notice of Failure to Remedy Objection to Proposed Rule" was issued by the Joint Committee.

Objection Four. An objection was issued to Section 2030.620(a) of the rules of the Department of Alcohol and Substance Abuse because they had not clearly and precisely set forth standards by which they would grant requests for extensions which are subject to review by the Department and are granted for hardship situations not created by the provider.

The Joint Committee directed staff to draft legislation to amend the Alcoholism and Substance Abuse Act (Supp. to Ill. Rev. Stat. 1983, ch. 111½, par. 6301 et seq.) to clarify that the Department of Alcoholism and Substance Abuse must promulgate rules concerning standards used to allow exemptions to all its Revenue/Expense reporting requirements.

Objection Five. An objection was issued to Sections 2030.210(b)(i) and 2030.440(c) due to the fact that the Department had not clearly and precisely set forth standards by which it determines whether allowable costs and in-kind contributions are "necessary and responsible for proper and efficient" execution of an award. The Department attempted to amend the rule to meet the objection, however, a "Notice of Failure to Remedy Objection to Proposed Rulemaking" was issued by the Committee.

Objection Six. In this instance, Section 2030.730 lacked the necessary standards by which the Department would decide when to reduce compensation payable under the award document for under-utilization of substance abuse treatment services. The Committee recommended that a "Notice of Failure to Remedy Objections to Proposed Rulemaking" be published despite the Department's attempt to remedy the objection.

Objection Seven. An objection was issued to Section 2030.30(a)(1) of the Department's rules because the standards for what constitutes a grantee's "opportunity to be heard and to offer evidence in support of its position" in a dispute concerning an existing contract were not stated as precisely and clearly as practicable as required. Although the Department attempted to amend the rule to meet the objection, the change was deemed to be insufficient and therefore the Joint Committee directed staff to publish a "Notice of Failure to Remedy Objection to Proposed Rulemaking."

Objection Eight. Section 2030.40 of the Department's rules were contrary to the provisions of Section 4.02 of the Illinois Administrative Procedure Act because they failed to provide clear and precise standards for granting exceptions to the rules.

The Joint Committee directed staff to draft legislation to amend the Alcoholism and Substance Abuse Act (Supp. to Ill. Rev. Stat. 1963, ch. 111½, par. 6301 et seq.) to clarify that the Department must, by rules, set forth the standards by which it will allow any exceptions to the general provisions of the rules.

Objection Nine. The Committee objected to Section 2030.630(a)(4) of the Department's rules because they failed to precisely and clearly set forth the standards by which the Department would grant approval for the retention of lapsed funds by a provider for use in the next fiscal year.

Despite the Department's attempt to remedy the objection, the Joint Committee directed staff to publish a "Notice of Failure to Remedy Objection to a Proposed Rulemaking," as well as, draft legislation to amend the Alcoholism and Substance Abuse Act, (Supp. to Ill. Rev. Stat. 1983, ch. 111½, par. 6301 et seq.) to clarify that the Department must promulgate as rules its funding priorities.

Objection Ten. In this instance, the Department had not set forth the standards by which it grants prior written approval for fund recipients to use real property that is no longer needed for original award purposes for other projects, per Section 2030.1130(b) of its rules.

Objection Eleven. The Joint Committee objected to Section 2030.1270(a) because the Department had not set forth standards by which it granted prior written approval for providers to enter into subawards for specific activities, responsibilities and obligations that the provider owes to the Department. The Joint Committee directed staff to publish a "Notice of Failure to Remedy Objection to Proposed Rulemaking," although the Department attempted to amend the rule to meet the objection.

Objection Twelve. Section 2030.960(a) of the Department's rules were contrary to the provisions of Section 4.02 of the Illinois Administrative Procedure Act because the Department had not set forth standards by which it grants prior written approval for budget revisions.

Objection Thirteen. An objection was issued to Section 2030.940 of the Department's rules because they were in violation of Section 4.02 of the Illinois Administrative Procedure Act. The Department had failed to clearly and precisely set forth the standards by which it grants prior written approval for programmatic changes.

Objection Fourteen. Section 2030.50 of the Department's rules was found to be in violation of Section 4.02 of the Illinois Administrative Procedure Act. The rules contained no standards for determining what types of "special conditions" the Department would impose upon fund recipients.

Lack of Clarity

Two objections were issued to the Department of Alcoholism and Substance Abuse rules due to the vagueness and lack of clarity.

Objection Three. The Joint Committee objected to Sections 2030.20(a), 2030.1210(a), 2030.1235(d)(4) and 2030.1245 of the Department's rules because these sections were vague and failed to fully identify which Federal and State rules, laws, and regulations the Department requires that providers follow as a condition for Departmental funding.

Objection Fifteen. The Joint Committee objected to Section 2030.220(d)(12) of the Department's rules because the section was found to be vague due to the fact that the Department had refused to cite the location in the Illinois Administrative Code of the travel regulations of the Department of Central Management Services rules which are relied upon for the reimbursement of travel and lodging expenses.

In addition, the Joint Committee issued two recommendations to the Department's rules. In both cases, the Department agreed to submit the requested information when it becomes available.

Recommendation One. The Joint Committee requested that the Department of Alcoholism and Substance Abuse submit for review and examination copies of all forms to be used in the administration and enforcement of its fiscal and programmatic requirements.

Recommendation Two. The Joint Committee requested that the Department submit a copy of its State Plan (prepared pursuant to Section 6(b) of the Alcoholism and Substance Abuse Act (Supp. to Ill. Rev. Stat. 1983, ch. 111½, par. 6306 (b)) so that this Plan could be evaluated by the Committee to determine if it contains additional policies and guidelines which fall within the definition of a rule as that term is defined in Section 3.09 of the IAPA.

Department of Mines and Minerals

At the January 18, 1984 meeting of the Joint Committee on Administrative Rules an objection was issued to the Department of Mines and Minerals proposed rules entitled "Special Prime Farmland Permit and Reclamation Rules." The Committee objected to Section 1785.17(a) due to the fact that the rule was to be applied retroactively, in violation of Section 9.01(h) of the Surface Coal Mining Land Conservation and Reclamation Act, and Section 5.01 of the Illinois Administrative Procedure Act.

The Summary and Purpose of the Proposed Rulemaking issued by the Department stated that, "The state policy [Section 1785.17(a)] announced July 8, 1982, to all coal operators will be implemented retroactive to all applications initially made since July 31, 1982" (emphasis added). The amendment established the Department's policy concerning the reclamation of surface mined prime farmland and the 13,000 acre limitation for new requests for grandfather exemption initiated since July 31, 1982.

However, Section 9.01(h) of the Surface Coal Mining Land Conservation Act states: "Each adopted rule is effective 30 days after filing, unless a later date is specified in the rule. No rule adopted shall be retroactive" (emphasis added). Also, Section 5.01 of the Illinois Administrative Procedure Act sets out the procedures for general rulemaking, was applicable to this proposed rulemaking.

At the time that the objection was issued, the Joint Committee also recommended that the Department of Mines and Minerals cease its practice of implementing and enforcing policies and procedures not adopted as rules. The Department failed to respond to the Joint Committee objection within the 90 day response period, which expired on April 26, 1984, and therefore, pursuant to Section 7.06 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par. 1007.06(f), this rulemaking was withdrawn in its entirety by operation of law.

REVIEW OF EMERGENCY AND PEREMPTORY RULEMAKING

Emergency and preemptory rulemakings were first reviewed by the Committee in the fall of 1979. The Committee strives to ensure only limited use of these procedures due to the fact that emergency and preemptory rulemakings allow agencies to bypass the notice and comment period otherwise required by the Illinois Administrative Procedure Act.

State agencies adopted 78 emergency rulemakings during 1984. The Committee issued 18 objections to 14 emergency rulemakings and made 3 recommendations to 2 emergency rulemakings. The Committee reviewed 22 preemptory rulemakings in 1984. Five objections being issued to 5 preemptory rulemakings. No recommendations were issued by the Committee to preemptory rules.

Emergency Rulemaking

Section 5.02 of the Illinois Administrative Procedure Act allows agencies confronted with an emergency situation to promulgate rules without going through the usual notice and comment period. An emergency relative to rulemaking exists when the agency believes that there is a threat to the public interest, safety or welfare. In place of following the proposed rulemaking requirements, the rule can be filed immediately, take effect within 10 days, and remain in effect for a maximum of 150 days. There are, however, restricting qualifications on the use of emergency rulemaking. Initially, an emergency situation threatening the public interest, safety, or welfare which requires the adoption of the rule on fewer days' notice than is required for general rulemaking must exist, and the emergency rule must be limited to only provisions in direct response to the actual emergency. In addition, an agency is prohibited from adopting an emergency rule having the same purpose and effect as any emergency rule adopted within the previous 24 months. Finally, despite the agency's ability to forgo the notice and comment period, the Act requires the agency to "take reasonable and appropriate measures to make emergency rules known to the persons who may be affected by them." Thus, the Illinois Administrative Procedure Act does

provide agencies the rulemaking flexibility they need in order to respond to emergency situations. These limitations serve to constrain that flexibility while protecting the public's right to be informed.

The Committee reviews each emergency rulemaking, deriving its power from Section 7.07 of the Act which empowers it to examine any rule. The Committee follows the criteria for review set forth in Sections 230.400 and 230.500 of the Joint Committee's Operational Rules. The primary criteria for review are found in Section 230.400. The review criteria, consistent with those in the Illinois Administrative Procedure Act, include: 1) whether the agency's statement of necessity for the emergency rule does in fact show the existence of an emergency; 2) whether the agency has shown an adequate reason for not complying with the notice and hearing requirements of the Act; 3) whether the rulemaking is limited only to those provisions which are required by the emergency; 4) whether the agency took action to make the emergency rulemaking known to those affected; and 5) whether there has been a previous emergency rulemaking with substantially the same purpose and effect in the preceding 24 months.

The following overview highlights the Committee's review of emergency rules for 1984.

At its March 13, 1984 meeting, the Joint Committee objected to the Department of Registration and Education's emergency rulemaking entitled "Private Detective and Private Security Act." The objection was issued on the basis that the Department lacked the statutory authority to impose certain fees for licensure pursuant to Section 6 of the Private Detective and Private Security Act of 1983.

On February 23, 1984, the Committee objected to the emergency rulemaking of the Department of Law Enforcement Merit Board on the basis that there was insufficient reason to believe that this "emergency rulemaking" should have been filed upon fewer days' notice than is required by Section 5.01 of the Illinois Administrative Procedure Act, because the "emergency" was the result of the Department's failure to file proposed rules in a timely manner. The basis for this objection is a recurring problem facing the

Committee, that of agencies exercising emergency rulemaking authority to compensate for avoidable administrative failures. In these "self-created emergencies," agencies adopt emergency rules only to compensate for delays or other factors over which the agency has control. The Committee's position regarding the use of emergency rulemaking for "self-created emergencies" was recently upheld by the Illinois Appellate Court in Senn Park Nursing Center v. Miller (455 N.E.2d 162). In that case, the court stated that, "it would defeat the purposes of the notice and comment procedures if an agency could dispense with such procedures by enacting an emergency rule where the 'emergency' was created by the agency's failure to follow these procedures in the first place."

Two similar objections were issued at the July 18 and September 20, 1984 meetings of the Joint Committee. In July, the Committee objected to the emergency amendment of the Illinois Commerce Commission's "Uniform System of Accounts for Telephone Utilities." Upon issuance of the objection, the Committee cited that the "emergency" was the result of the Commission's failure to file proposed rules in a timely manner and, hence, does not satisfy the definition of "emergency" set forth in Section 5.02 of the Illinois Administrative Procedure Act.

The objection issued at the September 20, 1984 meeting was directed to the Secretary of State's regulations under the Illinois Securities Law of 1953. Once again, the Committee cited Section 5.02 of the Illinois Administrative Procedure Act which defines "emergency" as "the existence of any situation which any agency finds reasonably constitutes a threat to the public interest, safety or welfare" and which requires the adoption of rules on fewer days than is required by Section 5.01 of the IAPA. The Secretary's explanation of the need for the emergency rulemaking was unconvincing due to the fact that the revision to the Securities Law was signed in August, 1983, one year prior to the implementation of the emergency rule, thus allowing sufficient time to prepare a set of rules.

On September 20, 1984, the Department of Labor's emergency rulemaking entitled "Toxic Substances Disclosure to Employees" was found to be in violation of Section 5.02 of the Illinois Administrative Procedure Act, and an

objection was voted by the Committee. Section 5.02 prohibits the adoption of two or more emergency rules "having substantially the same purpose and effect" within a 24-month period. The Department had adopted an emergency rule to implement the Toxic Substance Disclosure to Employees Act, which was virtually identical to this rulemaking, on March 1, 1984.

An objection to the Environmental Protection Agency's emergency rules entitled "Procedures for Operation of the Hazardous Waste Fee System" was issued on July 18, 1984. The objection was issued because the Agency implemented its policies, but delayed adopting rules for five months, in violation of Sections 5 and 4(c) of the Illinois Administrative Procedure Act. The Environmental Protection Agency adopted this emergency rulemaking effective May 4, 1984, to implement modified procedures for collecting the State imposed fee for hazardous waste disposal and treatment facilities.

Finally, although the Committee's review of emergency rules focuses mainly on the procedural criteria summarized above, emergency rules are also reviewed for the propriety of their substance. In this vein, the Joint Committee issued an objection to the emergency rule of the Pollution Control Board entitled "Landfills: Prohibited Hazardous Wastes." Issued September 20, 1984, the objection addressed emergency rules which were promulgated to implement the provisions of Section 22.6 of the Environmental Protection Agency which regulates the disposal of liquid hazardous waste, because the Board exceeded its statutory authority.

Peremptory Rulemaking

Section 5.03 of the Illinois Administrative Procedure Act governs the use of peremptory rulemaking. Rules adopted pursuant to this section of the Act become effective immediately upon filing with the Secretary of State or at a date required or authorized by federal law, federal rules and regulations, or court order as stated in the notice of rulemaking. Notice of the rulemaking is published in the Illinois Register and must state specifically the reason for the existence of the peremptory rulemaking situation. The agency is required to file the notice of peremptory rulemaking within 30 days after a change in an agency's rules is required.

The Committee reviews all peremptory rulemaking. The statutory authority for the Committee's review is Section 7.07(a) of the Act which empowers the Committee to "examine any rule." The purpose of the review is to ensure that use of the peremptory rulemaking process is limited to only those situations which meet the requirements of Sections 5.03 of the Act.

The review of a peremptory rulemaking is based upon the criteria set forth in Sections 240.500 and 240.600 of the Joint Committee's Operational Rules. The primary criteria for review include: 1) whether the agency was precluded from complying with the general rulemaking requirements of Section 5.01; 2) whether the agency was required to adopt rules as a direct result of federal law, federal rules and regulations, or court order; 3) whether the rulemaking is limited to what is required by the federal law, federal rules and regulations, or court order; 4) whether the agency has given an adequate reason for not complying with the notice and hearing requirements of the Act; and 5) whether the agency filed the notice within 30 days after the change in the rules was mandated.

The following overview highlights the Committee's review of peremptory rules for 1984.

At the May 15, 1984 meeting, the Joint Committee objected to the Department of Children and Family Services' use of the peremptory rulemaking procedures pertaining to "Services Delivered by the Department" (89 Ill. Adm. Code 302.130). The Committee found the Department to be in violation of Section 5.03 of the Illinois Administrative Procedure Act in that the Department exercised discretion as to the contents of the methods and procedures adopted by the rulemaking. The Department stated in its notice of peremptory rulemaking that federal regulation required "State Child Protective Services agencies to establish and maintain in written form methods of administration and procedures for applying State laws protecting children from medical neglect" by April 12, 1984. It was the opinion of the Joint Committee that the Department exercised discretion in determining what administrative methods would be used by incorporating 89 Ill. Adm. Code 302.100 into the amendment. Because the Department exercised discretion as to the content of the rules incorporated by the amendment, the Joint

Committee objected to the use of the peremptory rulemaking. The Department failed to respond to the Joint Committee's objection to this peremptory rulemaking.

On December 11, 1984, the Committee objected to the Department of Public Aid's use of peremptory rulemaking as it pertained to "Aid to Families With Dependent Children (Compliance with Deficit Reduction Act of 1984)" (89 Ill. Adm. Code 112). The Joint Committee objected to Section 112.130(h) of the rules of the Department because, contrary to the provisions of Section 402(a)(18) of the Social Security Act and Section 4-1.6 of the Public Aid Code, the rule disregards the earned income of part-time students which is not derived from a program carried out under the Job Training Partnership Act from comparison to 185 percent of the State's standard of need for the students assistance unit. It was the opinion of the Joint Committee that not only was this change not required by Federal law (as necessary to justify the use of peremptory rulemaking), but the provision disregarding all income earned by part-time students who are not employed full-time violates Section 4-1.6 of the Public Aid Code and Section 402(a) of the Social Security Act. The Department of Public Aid failed to respond to the Joint Committee's objection to Section 112.130(h).

The objection issued to the Department of Public Aid's peremptory rule entitled "Medical Payment" (89 Ill. Adm. Code 140) was issued at the February 23, 1984 Joint Committee meeting. The Committee objected to the Department's peremptory amendment to Section 140.4 "Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older" because the use of the peremptory rulemaking to implement a consent decree violated Section 5.03 of the Illinois Administrative Procedure Act. The Department stated that this rulemaking was necessitated by the court order entered in Kinder v. Miller (82 C. 4005) and that the Department had no discretion as to the content of the rulemaking. The court order entered in Kinder v. Miller was however a consent decree arrived at following a negotiation procedure which began in June of 1982. The Department actively participated in the negotiations as to the medical services which it would provide. Therefore, it was the opinion of the Joint Committee that the Department exercised discretion as to the contents of the peremptory

rulemaking by affecting the order which required it. The Department of Public Aid failed to respond to the Joint Committee's objection to the peremptory rulemaking.

On December 11, 1984 the Joint Committee objected to the Department of Public Aid's peremptory rulemaking entitled "Medical Payment (Inpatient Payment)" (89 Ill. Adm. Code 140.364)(a) of the rules of the Department because, contrary to the provisions of Section 5.03 of the Illinois Administrative Procedure Act, this amendment was not required as a result of a court order which precluded the Department's exercise of discretion as to the content of the rule. The Department stated that this peremptory rulemaking was required by the court order entered in Illinois Hospital Association v. Illinois Department of Public Aid (83 C. 5531). It was the opinion of the Joint Committee however that due to the fact that the court order in Illinois Hospital Association v. Illinois Department of Public Aid (83 C. 5531) did not specifically address the content of the amendment to Section 140.364(a), and since that amendment is not necessarily required as a result of the court order, the Department had not met the three requirements necessary to use the peremptory rulemaking procedures of Section 5.03 of the IAPA. The Department clearly exercised discretion as to the content of the rule. The Department responded to this peremptory rulemaking by refusing to modify or withdraw.

The Committee issued an objection to the Department of Public Health's peremptory rulemaking entitled "Problem Pregnancy Health Services and Care Projects" (Rule 1.03c). The objection was issued at the April 10, 1984 Joint Committee meeting because the rulemaking did not meet the requirements of Section 5.03 of the Illinois Administrative Procedure Act in that it was not required as a result of federal law or an order of the court. This peremptory rulemaking amends Rule 1.03c in order to state the Department's policy regarding funding as it is required by the Stipulation of Settlement, in the case Planned Parenthood Association - Chicago Area vs. William L. Kempiners (No. 81 C 3332). This Stipulation of Settlement required the Department to implement Section 4-100 of the "Problem Pregnancy Health Services and Care Act" as amended by Public Act 83-51 which became effective January 1, 1985. It was the opinion of the Joint Committee that the

Stipulation of Settlement involved in this case was neither an order of court, nor precluded the exercise of discretion by the agency, and therefore fails to meet the requirements of Section 5.03 of the IAPA. On June 14, 1984, the Department filed a Proposed Repealer of the peremptory rule.

While the number of objections issued regarding emergency and peremptory rulemakings is not large, the mere fact that the Committee reviews these rulemakings impacts upon the use of these types of rulemakings by State agencies. Therefore, a thorough review of the use of emergency and peremptory rulemakings will continue.

FIVE YEAR REVIEW

Section 7.08 of the Illinois Administrative Procedure Act requires the Committee to review existing rules at least once every five years. The Act requires that this review be conducted in accordance with a classification system grouping all rules by subject area. The classification system has been designed to assure that rules which are similar in nature are reviewed at the same time. For this reason, a five year review report normally contains rules from several agencies, with each set of rules relating to the same topic, such as consumer protection, vocational and professional education, or land pollution control. The review focuses upon several issues, including organizational and procedural reforms; the modification or abolition of rules; the elimination of obsolete, overlapping or conflicting rules; and the economic and budgetary effects of the rules.

The review process is conducted in several different stages. Initially, the staff will request specific information from the agencies which have rules which are scheduled to be included in the review. The requests usually concern the statutory authority upon which the rule is based, the cost to implement the rule, and the current need for the rules. A public hearing on the rules may also be scheduled. During this stage, the agency staff and the Committee staff often reach tentative agreements to correct problems that have been discovered in the rules. Issues which cannot be resolved during this stage are referred to the Committee for action. The tentative agreements are also presented to the Committee.

Stage two of the review process is the preliminary written report which is presented to the Committee and agency officials for their consideration. The report includes written agency responses as well as suggestions and recommendations for Committee action.

Stage three consists of the preparation of the final report and the formal Committee hearing. At the hearing, agency representatives present their position on the proposed recommendations, and the Committee votes to either accept or reject the recommendations.

Finally, Stage four is the "follow-up" stage of the review. The Committee staff monitors and reports on agency action and prepares any necessary reports. This procedure ensures that the Committee recommendations are being followed.

The Committee completed three reports regarding existing rules during 1984: Business Regulation: Volume IV, Illinois Racing Board; Records and Information Management; and Public Utilities. The Business Regulation report was presented to the Committee, and the Committee issued nine recommendations pursuant thereto. The Records and Information Management final report was presented to the Committee in early 1985 and the Committee issued fourteen (14) recommendations thereto. The Public Utilities preliminary report has been prepared and the agency responses have been received by the Committee. The final report will be issued in 1985.

BUSINESS REGULATION (Volume IV: Illinois Racing Board)

This report presents the results of the staff analysis of approximately one-eighth of the rules classified under the category of "business regulation." During the course of the review, 580 substantive issues were raised concerning 57 sets of rules of the Illinois Racing Board. The review resulted in 9 specific recommendations for Joint Committee action. Of the 580 issues raised, 374, or 65% resulted in tentative agreements being reached at the staff level. Over 94% of the agreements were reached regarding issues relating to accuracy and currency, simplicity and clarity, and the inclusion of adequate standards. The answers to 199, or 34% of the questions asked of the Board were, in the opinion of the staff, deemed adequate, thereby resulting in no agreements for change or recommendations for formal Joint Committee action.

An examination of the issues raised relevant to the review criteria which resulted in recommendations reveals that approximately 11% of the recommendations are based on the apparent lack of adequate standards and criteria in the rules. Approximately 33% of the recommendations are based upon insufficient legal authority. None of the recommendations are based on issues relating to simplicity and clarity.

In the course of the review, a number of problems were encountered which became significant either because of the importance of the problem as it relates to the effect of the improper rule, or because of the frequency with which a particular issue was encountered. The following paragraphs discuss some of the important issues and problems discovered during the course of this review.

The Language of Racing

A frequently occurring problem in the review of most rules in the course of the five-year review of existing rules is that of unclear language. The review of the Racing Board rules, however, presented difficulties in addition to those normally found in agency rules. That difficulty was the fact that the sport of racing has developed its own particular language, which uses many terms and phrases not generally used outside the realm of horse racing. In an effort to make its rules understandable to those who are most involved in the racing industry, the Racing Board rules are written using many of these particular terms and phrases. Thus the rules include repeated use of such terms as "handle," "ruled-off," "weight out," "breakage," "trifecta," and others. In each case, in order to obtain a clear understanding of the meaning of the rules, it became necessary to request an explanation of the particular racing term used.

It was the opinion of the staff that it was necessary to provide definitions of the racing terms used, so that the general public, as well as those already involved deeply in the racing industry, could understand the rules and regulations that apply. Throughout the course of the review, the Joint Committee took the position that the rules of the Racing Board are not only for the industry, but also for the protection of the public in general. In numerous instances, the Board agreed to add definitions of those terms which are unique to the sport of racing.

Simplicity and Clarity

Simplicity and clarity tend to be two of the more serious obstacles to

public understanding of agency rules, and two of the most frequently occurring problems targeted by the Committee's review criteria.

During the course of this review, several of the Racing Board's rules were found to contain vague language. For instance, Sections 1302.70(g) and 1408.70(g) provide that "[n]o license shall be issued by the Board to any person who is engaged in any activity or practices which are undesirable or detrimental to the best interests of the public and the sport of horse racing." (emphasis added) In response to Joint Committee staff questions, the Board indicated that this issue will be addressed as part of the Board's continuing effort to modernize its rules.

Other Board rules, Section 1302.70(d) and 1408.70(d), state that "[n]o license shall be issued by the Board to any person who has been or is habitually intoxicated within the confines of a race track." (emphasis added) The Board has agreed to attempt to further define "habitually intoxicated" in the rules.

Administrative Searches

One area of concern uncovered in the review of several Illinois Racing Board rules, which resulted in a recommendation by the Committee, was the conduct of administrative searches of regulated persons and their property.

Any provision dealing with the right of a governmental entity to search the person or property of a citizen is fraught with the possibility of unconstitutional invasion of privacy. The administrative search issue was addressed previously by the Joint Committee in its Final Report on Regulation of Occupations, September, 1980. As a result, the Committee objected to Rule 14.4.4(b) of the Department of Public Health's Plumbing Code rules for failure to comply with constitutional requirements for administrative searches. With the responsibility to examine the conformance of rules with constitutional requirements in mind, the provisions of Section 1424.40(a) of the Racing Board's rules were examined carefully.

Section 9(c) of the Illinois Horse Racing Act of 1975 states:

The Board, and any person or persons to whom it delegates this power is vested with the power to enter the office, horse race track, facilities and other places of business of any organization licensee to determine whether there has been compliance with the provisions of this Act and its rules and regulations.

Of primary concern to the Committee was whether the racing industry is one of those pervasively regulated industries, such as the liquor and firearm industries, which are not subject to the general rule prohibiting warrantless searches. In a relatively recent case, New Jersey v. Dawe (428 A.2d 947, 178 N.J. Super. 275 (1981)), the Superior Court of New Jersey upheld a New Jersey Racing Commission regulation which authorized warrantless administrative searches. In Luchester v. Pennsylvania State Horse Racing Commission (325 A.2d 648 (1974)), the Court held that warrantless search of a trainer's vehicle on racing grounds did not violate the Fourth Amendment.

Section 1424.40(a) of the Illinois Board's Regulations for Meetings is presently the subject of litigation (Serpas v. Charles E. Schmidt No. 82 C 4715 United States District Court, Northern District of Illinois, Eastern Division). This matter came before the court on plaintiff's motion to dismiss. The three named plaintiffs are occupation licensees of the Illinois Racing Board employed as grooms at Arlington Park Racetrack. The plaintiffs live in residential quarters located at the racetrack. The plaintiffs alleged that their residential quarters have been searched and that they themselves have been stopped and personally searched within the racetrack enclosure by agents of the Illinois Department of Law Enforcement. This case is presently pending in the United States District Court for the Northern District of Illinois Eastern Division. At this time there has been no decision made by the court relative to permanently enjoining defendants from these activities. For this reason, the Joint Committee issued the following recommendation concerning Section 1424.40(a) of the Illinois Racing Board rules.

IT IS RECOMMENDED THAT THE JOINT COMMITTEE DIRECT STAFF TO CONTINUE TO MONITOR THE PROGRESS OF SERPAS V. SCHMIDT, AND THAT UPON FINAL DISPOSITION OF THIS MATTER, RECOMMEND TO THE COMMITTEE APPROPRIATE ACTION DIRECTING THE ILLINOIS RACING BOARD TO CONFORM ITS RULES TO THE DIRECTION OF THE COURT.

Penalty Section

Discretionary Language

During the review of the Racing Board's rules and regulations, numerous rules contained statements providing, "any person found guilty of violating...shall be punished by a fine, suspension or expulsion."

Section 4.02 of the Illinois Administrative Procedure Act requires that "[e]ach rule which implements a discretionary power to be exercised by an agency shall include the standards by which the agency shall exercise the power." (Ill. Rev. Stat. 1983, ch. 127, par. 1004.02). Thus, each time a statement or phrase which includes a discretionary power to be exercised by the Racing Board appears in the rule, the standards by which the Board makes such determinations must be set forth in the rule.

While the Board agreed to comply with the IAPA requirement by amending its rules, it soon became apparent that including standards in each rule would be cumbersome, and would result in a considerable amount of unnecessary repetition. The Board therefore agreed to develop and promulgate a single penalty rule which will include either the specific penalty for violation of particular rule(s), or the standards and criteria used in determining the penalty to be imposed for any violation. Such a rule should adequately set forth the standards which are used by the Board to determine the penalty which will be imposed, and will aid in providing consistency to the penalties imposed.

Conflict and Overlap

Among the responsibilities of the Joint Committee in its review of existing rules is whether the rules are free of overlaps and conflicts between requirements and between regulatory jurisdictions. In this review, two areas were discovered which appeared to merit particular consideration by the Joint Committee.

1. Fire Safety Rules

The regulation and enforcement of fire safety at racetracks in Illinois appears to be the responsibility of both the Illinois Racing Board and the Office of the State Fire Marshal. Apparently, both agencies are charged with the responsibility, or at least consider themselves responsible, for enforcing fire safety procedures for Illinois racetracks.

An examination of the two sets of rules dealing with fire safety at racetracks revealed that the rules are identical. The Racing Board has, in fact, adopted the Fire Marshal's rules as its own. During the course of the review, the Racing Board deferred all questions concerning the fire safety rules, indicating that any changes in those rules should be discussed with the Office of the State Fire Marshal.

In view of the fact that both the Illinois Racing Board and the Office of the State Fire Marshal have promulgated and filed "Illinois Racetrack Rules for Fire Safety," the Joint Committee has recommended that the appropriate standing committees of the General Assembly consider legislation to clarify the responsibility for fire safety at racetracks in Illinois. It was also recommended that the responsibility for the enforcement of fire safety rules for Illinois racetracks be consolidated under either the Illinois Racing Board or the Office of the State Fire Marshal.

2. Employment of Minors

The authority for setting minimum qualifications for employment at Illinois racetracks rests with the Illinois Racing Board, through their statutory duty to license. The Board has promulgated rules governing employment. Of

primary concern are those rules relating to the employment of persons under 16 years of age.

"An Act to regulate the employment of children and to repeal an Act herein named" (unofficially referred to as the Child Labor Law) (Ill. Rev. Stat. 1983, ch. 48, par. 31.3 et seq.) is administered by the Illinois Department of Labor. That Act regulates the employment of minors under the age of 16, and it requires 14 and 15 year olds who are employed to have employment certificates. Section 7(1) of that Act provides, in part, that no minor under 16 years of age shall be employed, permitted or suffered to work in or about any "exhibition park or place of amusement."

According to the Racing Board's rules, minors under the age of 16 are allowed to be employed at tracks automatically in the summer and with the approval of the Board in other instances (Part 1420). This rule is in direct conflict with the terms of the Child Labor Law, and with the Department of Labor's authority to administer that Act. The Board has agreed that upon rewriting this chapter of the rules, the Board will remove all references to the licensing of persons under the age of 16.

RECORDS AND INFORMATION MANAGEMENT AND PUBLIC UTILITIES

These five year reports address many basic issues common to those discussed in the Racing Board Report. The following is a statistical overview of each report.

In the Records and Information Management Report, 15 sets of rules from 10 agencies were analyzed. During the course of the review, 297 substantive issues were raised, resulting in 15 specific recommendations for Joint Committee action. Of the 297 issues raised, 156 (53%) resulted in tentative agreements being reached at the staff level to amend rules to address the concerns raised. This figure is somewhat lower than that of the previous five year reviews. This lesser number can perhaps be explained by the fact that the rules under review in this report appear to have been, in general,

updated by the agencies more frequently than the rules reviewed in previous reports. Ordinarily, between 65 and 70 percent of all issues raised result in tentative agreements at the staff level to amend rules to satisfy concerns raised. The answers to 131 of the questions asked of the agencies (44%), were, in the opinion of the staff, adequate and no change or recommendation appears in the Report.

The Records and Information Management Report contains nine recommendations for objection to existing rules. Three recommendations suggest rulemaking by the affected agencies, one recommendation is made for corrective legislation, and two recommendations call for administrative study by the various agencies.

Twenty-one sets of rules from the Commerce Commission were analyzed during the compilation of the Public Utilities Report. During the course of the review, 272 substantive issues were raised, resulting in 21 specific recommendations for Joint Committee action. Of the 272 issues raised, 174 (64%) resulted in tentative agreements being reached at the staff level. The answers to 78 of the questions asked of the agencies (78%) were, in the opinion of the staff, adequate and no change or recommendations appeared to be necessary.

The Public Utilities Report contains 18 recommendations for objection to existing rules. One recommendation suggests rulemaking by the Illinois Commerce Commission, one recommendation is made for corrective legislation, and one recommendation calls for an administrative study by the Illinois Commerce Commission.

COMPLAINT REVIEW PROGRAM

Sections 7.04 and 7.07 of the Illinois Administrative Procedure Act grants the Joint Committee authority to review rules based upon complaints. Section 7.04 allows the Committee to "undertake studies and investigations concerning rulemaking and agency rules." In addition, it requires the Committee to "monitor and investigate" agency compliance with the provisions of the Illinois Administrative Procedure Act, and to "make periodic investigations of the rulemaking activities of all State agencies, and evaluate and report on all rules in terms of their propriety, legal adequacy, relation to statutory authorization, economic and budgetary effects and public policy."

Section 7.07 of the Act authorizes the Joint Committee to issue objections to existing rules and assigns to the Committee the task of examining "any rules for the purpose of determining whether the rule is within the statutory authority upon which it is based, and whether the rule is in proper form."

The Committee's Operational Rules outline the complaint review process. Upon receipt of a complaint, the Committee staff conducts an initial review to determine the need for a full complaint investigation. Most of the inquiries received by the Committee simply require basic information, such as copies of rules, or referrals to appropriate agencies.

In 1984, the Committee held formal hearings on two complaints. The first complaint was received in May of 1984 concerning the Department of Transportation, Division of Water Resources' "Rules for Construction in Rivers, Lakes and Streams." A review of the Department's rules on file with the Administrative Code Unit revealed that the Department had not proposed nor adopted these rules pursuant to the requirements of the Illinois Administrative Procedure Act. The Department indicated that, for the past five years, it had been issuing draft rules which are used as guidelines for construction in rivers, lakes and streams, and that less than ten permits have been denied during that time. The Department contended that these draft rules do not meet the definition of a "rule" as required by Section 3.09

of the IAPA because compliance is not mandatory. However, in the complainant's case, these draft rules were viewed as binding, due to the fact that strict compliance was necessary in order to receive a permit.

Section 3.09 of the IAPA defines "rule" as "each agency statement of general applicability that implements, applies, interprets, or prescribes law or policy...." A review of the Department's "Rules for Construction in Rivers, Lakes, and Streams" revealed that these rules prescribe policies concerning the permit application and issuance processes, permit conditions, hearing procedures, and specific requirements for various types of construction in waterways throughout the State. These rules, enforced by the Department of Transportation, Division of Water Resources, fall within the definition of a "rule." At the July 18, 1984 meeting of the Joint Committee, it was formally recommended that the Department of Transportation, Division of Water Resources, commence proceedings to adopt "Rules for Construction in Rivers, Lakes and Streams" as rules. Additionally, the Committee suggested that the Department discontinue enforcement of the draft rules until they are adopted pursuant to the Illinois Administrative Procedure Act.

The second complaint, received in June of 1984, was made by a member of the Illinois General Assembly to the Joint Committee concerning the policies of the Department of Rehabilitation Services regarding disability determinations. The complaint concerned whether or not the Department of Rehabilitation Services had on file with the Secretary of State any rules or regulations promulgated which implemented the disability program. A preliminary review of the rules on file with the Administrative Code Unit revealed that the Department did not have rules on file which outline its policies on this subject. Of primary concern to the Committee was the issue of whether the Department was implementing policy when making disability determinations.

The Joint Committee was concerned that the Department of Rehabilitation Services was implementing their own policy and that the United States Social Security Administration which had not been promulgated pursuant to the rulemaking provisions of the Illinois Administrative Procedure Act. Following a general review of the material submitted by the Department, in response to

the Committee's inquiries, it became evident that the initial inquiry made to the Joint Committee was correct in its implied assertion that the Department of Rehabilitation Services was implementing and prescribing policy when making disability determinations which had not been promulgated by the IAPA.

A complete review of all 11 volumes of material submitted by the Department clearly revealed that the policies concerning disability determinations should be contained in rules. In order to facilitate the promulgation of such rules, the Committee issued 15 recommendations based upon the perceived policies of the Department of Rehabilitation Services not contained in any promulgated rules. Each recommendation referred to the relevant provision of the Federal operations, policy manuals and rulings, suggesting that the Department's policy implementing, interpreting and prescribing these provisions be embodied in a rule because the Department is applying such policy in making disability determinations.

PUBLIC ACT REVIEW

Section 7.05(3) of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par. 1007.05) provides that the Joint Committee will maintain a review program to study the impact of legislative changes...on agency rules and rulemaking. The Joint Committee fulfills this statutory obligation through its public act review program. Under this program, the Committee reviews each of the public acts filed during the year and determines whether the legislation requires agency rulemaking. Upon making this determination, the Committee notifies each agency which will be required to promulgate rulemaking and requests information regarding the status of such rulemaking. The Committee then monitors the agency's progress in fulfilling the rulemaking requirement.

A primary goal of the Joint Committee in this program is to ensure that the rulemaking is implemented in an expeditious manner as required by Section 8 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par. 1008).

The Joint Committee reviewed 431 public acts passed during 1984 by the 83rd General Assembly. Among these, 153 require rulemaking by various agencies. The following tables summarize the Committee's findings. Table A indicates the number of public acts which may require rulemaking and the number of rulemakings initiated for each agency. Table B lists each public act which requires rulemaking, the agency or agencies involved, and the agency's response to the Joint Committee's request regarding the status of such rulemaking.

TABLE TWO 1984 PUBLIC ACTS
WHICH REQUIRE AGENCY RULEMAKING

<u>Agency Name</u>	<u>No. of Public Acts Requiring Rulemaking</u>	<u>No. of Rule- makings Initiated</u>
<u>Elected Officials</u>		
Attorney General	2	1
Secretary of State	7	4
State Treasurer	1	1
<u>Other Agencies</u>		
Department on Aging	2	4
Department of Agriculture	1	0
Commissioner of Banks and Trusts	1	0
Carnival Amusement Safety Board	1	0
Department of Central Management Services	2	2
Chicago World's Fair Authority	1	0
Department of Children and Family Services	1	1
Illinois Commerce Commission	6	0
Department of Commerce and Community Affairs	6	4
Department of Conservation	5	3
Illinois Criminal Justice Info. Authority	1	0
Department of Corrections	1	0
Illinois Development Finance Authority	1	0
Illinois Emergency Services and Disaster Agency	1	0
Department of Employment Security	4	0
Department of Energy and Natural Resources	1	0
Environmental Protection Agency	7	0
Experimental Organ Transplant Board	1	0
Department of Financial Institutions	4	2
State Fire Marshal	1	1
Illinois Housing Development Authority	1	2
Human Rights Commission	1	0
Illinois Industrial Commission	1	1
Department of Insurance	4	0
Illinois Job Training Council	1	1
Department of Labor	2	2
Department of Law Enforcement	2	2
Liquor Control Commission	1	0
Local Governmental Law Enforcement Officers Training Board	1	1
Department of Mental Health and Developmental Disabilities	5	2
Department of Nuclear Safety	3	3
Pollution Control Board	4	3
Prisoner Review Board	1	1
Department of Public Aid	22	12
Department of Public Health	9	6
Department of Rehabilitation Services	1	0

TABLE TWO 1984 PUBLIC ACTS
WHICH REQUIRE AGENCY RULEMAKING
(Continued)

<u>Agency Name</u>	<u>No. of Public Acts Requiring Rulemaking</u>		<u>No. of Rule- makings Initiated</u>
Department of Registration and Education		8	3
Department of Revenue	18	4	
Savings and Loan Commissioner	1	0	
Illinois State Toll Highway Authority	3	0	
Department of Transportation	4	0	
<u>Educational Agencies</u>			
Illinois Community College Board	2	2	
State Board of Education	5	0	
State Universities Retirement System	1	0	
State Scholarship Commission	1	1	
State Teachers Retirement System	1	0	

TABLE THREE PUBLIC ACTS
WHICH MAY REQUIRE RULEMAKING

*Key to Responses: AFFM = Affirmative; NEG = Negative; FTR = Failure to Respond within timeframe requested; NRR = No Response Received as of this date

Public Act	Agency	Subject	Response
83-1114	Dept. of Commerce and Community Affairs	Enterprise Zones	AFFM
83-1120	Illinois Commerce Commission	Public Utilities	FTR
83-1122	Department of Labor	Toxic Substances	AFFM
83-1124	Department of Revenue	Farmland Assessments	AFFM
83-1125	Illinois Industrial Commission	Workers' Compensation	AFFM
83-1126	Department of Public Aid	Child Support Enforcement	NEG
83-1128	Department of Public Health	Abortion-Live Birth	AFFM
83-1129	Dept. of Commerce and Community Affairs	World's Fair	AFFM
83-1132	Department of Insurance	Vehicle Insurance	NEG
83-1178	Dept. of Central Management Services	Lease of Surplus Space	AFFM
83-1226	State Board of Education	Equalize Assessed Valuation	FTR
83-1234	Dep. of Mines and Minerals	Safety Examination	NEG
83-1235	Pollution Control Board	RCRA Permits	AFFM
83-1236	Dept. of Mines and Minerals	Underground Power Equip.	NEG
83-1240	State Fire Marshal	Amusement Ride Safety	AFFM
	Department of Labor	Amusement Ride Safety	NEG
83-1242	Department of Public Aid	Public Aid Committees	NEG
83-1243	Department of Public Aid	Health Finance Reform	FTR
83-1246	Dept. of Registration and Education	Physicians-Advertising	NEG
83-1248	Department of Public Health	Abused Children Reporting	AFFM
83-1249	State Treasurer	Electronic Fund Transfer	AFFM
83-1250	Department of Revenue	Property Tax Appeal Bd.	FTR
83-1251	Illinois Housing Development Authority	Commercial Facilities	AFFM
83-1252	Department of Financial Institutions	Unclaimed Property	AFFM
83-1253	Department of Revenue	Retailers' Occupation Tax	NEG
83-1254	Liquor Control Commission	Dramshop Licenses	NEG
83-1255	Department of Public Health	Plumbing Licenses	NEG
83-1258	Department of Transportation	Highway Bonds	NEG
	Illinois Toll Highway Authority	Highway Bonds	NEG
83-1259	Department on Aging	Elder Abuse	AFFM
83-1260	Department of Transportation	Safety Inspections	FTR
83-1267	Department of Conservation	Migratory Waterfowl	NEG
83-1268	Environmental Protection Agency	Groundwater Study	FTR
83-1270	State Board of Education	Chicago School Bonds	FTR
83-1274	Experimental Organ Transplant Board	Experimental Organ Transplants	AFFM

TABLE THREE PUBLIC ACTS
WHICH MAY REQUIRE RULEMAKING
(Continued)

Public Act	Agency	Subject	Response
83-1282	Attorney General	Charity/Advertising	AFFM
83-1283	Attorney General	Charity/Annual Reports	AFFM
83-1286	Secretary of State	Narcotic Forfeit of Prop.	NEG
83-1288	Illinois Job Training Council	Job Training Council	AFFM
83-1289	Department of Revenue	Income Tax Returns	FTR
83-1290	Illinois Commerce Commission	Private Energy Entities	FTR
83-1291	State Board of Education	Due Process Hearings	FTR
83-1292	Dept. of Mental Health and Develop- mental Disabilities	Habilitation Incentives	NEG
83-1293	Dept. of Financial Institutions	Currency Exchanges	NEG
83-1299	Department of Insurance	License Requirements	NEG
83-1300	Department of Insurance	Surplus Line Producers	NEG
83-1302	Dept. of Commerce and Community Affairs	State's Attorney Reim- bursement	NEG
83-1304	Dept. of Mental Health and Develop- mental Disabilities	Nursing Homes	AFFM
83-1306	Dept. of Registration and Education	Real Estate Licenses	AFFM
83-1307	Dept. of Registration and Education	Real Estate Recovery Fund	NEG
83-1309	Department of Labor	Employment Assistance	FTR
83-1313	Illinois Community College Board	Community College Grants	AFFM
83-1314	Department of Nuclear Safety	Radiation Technicians	AFFM
83-1315	Dept. of Registration and Education	Private Detectives	AFFM
83-1325	Department of Public Health	Asbestos Abatement	AFFM
83-1326	Secretary of State	Vehicle Code	AFFM
83-1327	Department of Public Aid	Home Energy Assistance	AFFM
83-1330	Secretary of State	Government Ethics	NEG
83-1332	Dept. of Central Management Services	Minority/Female Businesses	AFFM
83-1335	Department of Conservation	Historic Preservation	NEG
83-1338	Department of Revenue	Sales Tax	AFFM
83-1340	Department of Nuclear Safety	Radioactive Wastes	AFFM
83-1341	Dept. of Commerce and Community Affairs	Business Assistance	NEG
83-1342	Department of Nuclear Safety	Nuclear Accidents/Fees	AFFM
83-1343	Illinois Commerce Commission	Small Businesses	FTR
83-1344	Dept. of Registration and Education	Podiatry	NEG
83-1347	Dept. of Financial Institutions	Credit Unions	AFFM
83-1349	Dept. of Commerce and Community Affairs	High-Tech Grants	AFFM
83-1350	Department of Public Aid	Neglected Children	AFFM
83-1351	Department of Public Aid	Refugee Aid	NEG
83-1352	Department of Revenue	Subchapter S Corporations	FTR

TABLE THREE PUBLIC ACTS
WHICH MAY REQUIRE RULEMAKING
(Continued)

Public Act	Agency	Subject	Response
83-1353	Department of Revenue	Use/Occupation Tax	AFFM
83-1354	Department of Law Enforcement	Missing Child Recovery	AFFM
83-1355	Pollution Control Board	Hearings/Petitions	NEG
83-1356	Environmental Protection Agency	Hazardous Material	FTR
83-1358	Pollution Control Board	Hazardous Wastes	AFFM
83-1359	Dept. of Mental Health and Developmental Disabilities	Local Grant Review	AFFM
83-1361	Department of Public Health	Hazardous Substances Reg.	AFFM
83-1363	Illinois Toll Highway Authority	Public Utility Equip.	NEG
83-1364	Dept. of Mental Health and Developmental Disabilities	DMHDD Organization	NEG
83-1366	Illinois Community College Board	Community College Tax	AFFM
83-1367	Illinois Development Finance Authority	Venture Investment Fund	FTR
83-1368	Illinois Emergency Services and Disaster Agency	Hazardous Materials	NEG
83-1372	Department of Public Aid	Illinois Parentage Act	AFFM
83-1374	Department of Conservation	Trapping Licenses	AFFM
83-1378	Department of Public Aid	Medical Indigent Aid	AFFM
83-1379	Department of Public Aid	Ind. Minor Support	AFFM
83-1381	Department of Human Rights	Human Rights/Religion	NEG
83-1382	Department of Public Aid	Emergency Food/Shelter	AFFM
83-1385	Illinois State Scholarship Commission	Higher Ed. Student Asst.	AFFM
83-1389	Illinois Local Governmental Law Enforcement Training Board	Probationary Corrections Officers	AFFM
83-1394	Department of Agriculture	Motor Fuel/Alcohol	NEG
83-1396	Department of Public Aid	Parent Location Services	AFFM
83-1397	Dept. of Mental Health and Developmental Disabilities	Missing Persons	NEG
83-1404	Department of Public Aid	Child Support Payments	NEG
83-1405	Department of Transportation	Lake Michigan Water Regs.	FTR
83-1406	Department of Public Health	Child Venereal Disease	AFFM
83-1408	Department of Public Health Dept. of Children and Family Services	Adoption Registry	NEG
83-1410	Department of Public Aid	Adoption Registry	AFFM
83-1413	1992 Chicago World's Fair Authority	Liability Husband/Wife	AFFM
83-1415	Department of Revenue	Chicago World's Fair Tax Enforcement Prov.	NEG
83-1416	Department of Revenue	Sales Transfers/Tax	FTR
83-1418	Department of Law Enforcement	Missing Persons	AFFM
83-1419	Dept. of Registration and Education	Topical Drug Use	AFFM

TABLE THREE PUBLIC ACTS
WHICH MAY REQUIRE RULEMAKING
(Continued)

Public Act	Agency	Subject	Response
83-1421	Secretary of State	Disabled Identification	AFFM
83-1426	Department of Revenue	Motor Fuel Tax	AFFM
83-1428	Department of Revenue	Taxpayer Amnesty	FTR
83-1432	Department on Aging	Elder Abuse	AFFM
83-1433	Prisoner Review Board	Crime Victims' Statement	AFFM
83-1434	Department of Public Aid	Preventive Health Program	NEG
83-1436	Dept. of Energy and Natural Resources	Hazardous Waste Techn.	NEG
83-1439	Department of Public Aid	Medical Costs	AFFM
83-1440	Board of Trustees-State Univer- sities' Retirement System	Pension Code	NEG
	Board of Trustees-Teachers' Retirement System	Pension Code	NEG
83-1443	Environmental Protection Agency	Multiple Generator Permits	FTR
83-1447	Department of Labor	Unemployment Insurance	NEG
83-1448	Racing Board	Horse Racing	AFFM
83-1450	Department of Public Aid	Medical Assistance	AFFM
83-1457	Secretary of State	Senior Citizens' Fees	AFFM
83-1460	Environmental Protection Agency	Applications/Permits	FTR
83-1461	Pollution Control Board	Non-Hazardous Wastes	AFFM
83-1465	Department of Insurance	Group Life Insurance	NEG
83-1468	Department of Public Aid	Income Limits	AFFM
83-1470	Department of Revenue	Inheritance Taxes	AFFM
83-1471	Department of Transportation	Public Transportation	FTR
83-1472	Dept. of Commerce and Community Affairs	Job Training Partnership	AFFM
83-1473	Secretary of State	Motor Vehicles	FTR
83-1476	Department of Public Aid	General Assistance	NEG
83-1477	Environmental Protection Agency	Vehicle Emission Inspect.	FTR
	Secretary of State	Vehicle Emission Inspect.	AFFM
83-1484	State Board of Education	Business/Vocational School	FTR
83-1485	Department of Conservation	Fish Code	NEG
83-1486	Department of Conservation	Wildlife Conservation Fund	AFFM
83-1492	Department of Conservation	Urban Forestry Assistance	NRR
83-1494	Environmental Protection Agency	Permits	NRR
83-1495	Department of Revenue	Precious Metals	NRR
83-1496	Department of Agriculture	Various Agency Powers	NRR
	Savings & Loan Commissioner		NRR
	Ill. Criminal Justice Info. Authority		NRR
	Department of Public Aid		NRR
	Department of Public Health		NRR
	Dept. of Financial Institutions		NRR
83-1498	Department of Revenue	Income Tax	NRR
83-1499	Prisoner Review Board/Corrections	Violent Crimes	NRR
83-1500	Department of Revenue	Railroad Retirement	NRR

TABLE THREE PUBLIC ACTS
WHICH MAY REQUIRE RULEMAKING
(Continued)

Public Act	Agency	Subject	Response
83-1501	Department of Public Aid	Public Aid Payments	NRR
83-1503	Department of Employment Security	Dept. of Employment Sec.	NRR
83-1504	Department of Employment Security	Unemployment Insurance	NRR
83-1505	Commissioner of Banks and Trusts	Bank Organizations	NRR
83-1508	Dept. of Registration and Education	Optometry	NRR
83-1509	Department of Public Aid	Prescription Payments	NRR
83-1513	Dept. of Registration and Education	Roofing Licenses	NRR
83-1516	Department of Revenue	Income Tax Credits	NRR
83-1517	Dept. of Children and Family Services	Juvenile Court	NRR
83-1522	Environmental Protection Agency	Hazardous Waste Landfills	NRR
83-1523	Illinois Export Development Authority	Export Development	NRR
83-1530	Department of Public Aid	Nursing Homes	NRR
	Department of Public Health	Nursing Homes	NRR
83-1531	Department of Revenue	Prescription Drug Assist.	NRR
83-1532	Illinois Commerce Commission	Public Utilities	NRR
83-1534	Dept. of Rehabilitation Services	Blind Operators	NRR
83-1535	Illinois Commerce Commission	Public Utilities	NRR

PUBLICATIONS OF THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES

Illinois Regulations, a weekly publication, as well as its predecessor, Reg-Flex Report, are the result of the Regulatory Flexibility Law which became effective in Illinois on January 1, 1982. This law assumes that small businesses may be unduly burdened by the rules promulgated by State agencies. Agencies, therefore, are asked to provide some flexibility to small businesses regarding compliance and reporting requirements contained in rules. Accordingly, small businesses are afforded the opportunity to raise issues and to suggest alternatives to rules proposed by State agencies. In return, the agency, prior to the adoption of the rule, must acknowledge any comments offered as well as provide an explanation as to why it declined to implement any suggestion made by small businesses.

Originally, the Reg-Flex Report featured a synopsis of all rules proposed in the Illinois Register which affected small businesses. The format and the content have been changed to include all regulatory action taken by State agencies having an effect on small businesses. Subscribers to Illinois Regulations now receive a weekly summary of proposed rules, rules affecting small businesses, adopted rules, and a list of second notices submitted to the Joint Committee. All regulated persons are encouraged to submit their views and comments on rules to the agency and to the Joint Committee. The Committee believes that this revised report provides a more understandable and comprehensive reporting of the changes in Illinois rules and regulations.

In addition to Illinois Regulations, the Committee has two publications available which have also been designed to enhance the public's knowledge of the rulemaking process. The Catalog of Business Regulations (1983) and A Citizen's Guide to the Illinois Administrative Procedure Act (1983) each provide the information necessary for interpreting the effects of agency administrative action upon small businesses as well as providing the procedures necessary to participate in the rulemaking process.

The Catalog of Business Regulations identifies thirty-three different agencies with more than five hundred sets of rules that impact business. The rules are separated into nine categories, with the official name of each rule appearing as it does on the set of rules filed with the Secretary of State, along with the agency responsible for administration of the rule, and the law that the rule implements. Related State or federal laws, or professional standards affecting the substance of the rule are also included. A synopsis of the scope of the rule and the agencies contact address also appear for each of the more than 500 rules included in the catalog. The Catalog of Business Regulations has been praised by national associations as the first compilation of its type produced by any State.

A Citizen's Guide to the Illinois Administrative Procedure Act provides a clear and simple explanation of the Act to even the most novice participants in the rulemaking process. In addition to explaining the significance of the Act, the Citizen's Guide delineates a section-by-section explanation of every provision of the Illinois Administrative Procedure Act. Also found in the Guide are answers to frequently asked questions concerning the citizen's role in the rulemaking process as well as sources of additional information for interested users of the Illinois Administrative Procedure Act. The Committee is confident that the Guide will increase the users' confidence in their ability to influence the substance of agency rules, and consequently, increase the level of public participation in the rulemaking process.

These educational publications demonstrate the Committee's commitment to ensuring that the public is made aware of the opportunities and privileges afforded them pursuant to the Illinois Administrative Procedure Act.

COURT DECISIONS

Section 7.05 of the Illinois Administrative Procedure Act (IAPA) requires that the Committee study the impact of court rulings and administrative actions on agency rules and rulemaking. In order to carry out this responsibility, the Committee reviews recent court decisions and Attorney General opinions, and monitors pending litigation which may affect administrative rulemaking. Several noteworthy legal decisions involving interpretations of the Illinois Administrative Procedure Act were issued during the past year by Illinois courts. The following is a brief summary of those decisions.

1. In Senn Park Nursing Care Center v. Jeffrey Miller, Director of Public Aid (104 Ill. 2d 169, 470 N.E.2d 1029 (1984)), the Illinois Supreme Court considered the appeal of two appellate court decisions involving the same parties, Senn Park I (118 Ill. App. 3d 504, 455 N.E.2d 153 (1 Dist. 1983)) and Senn Park II (118 Ill. App. 3d 733, 455 N.E. 2d 162 (1 Dist. 1983)).

Senn Park I

In Senn Park I, the court considered the appeal of a circuit court decision finding that the Department of Public Aid's inflation update procedure for nursing home reimbursement was invalid. On December 14, 1979, the Illinois Department of Public Aid (IDPA) sent nursing home facilities copies of changes to the State Medicaid plan which included an amended procedure for calculating the inflation update procedure. IDPA published notices of the amended inflation update procedure in the newspaper of the widest circulation in each Illinois city with over 50,000 population. The notice was not published in the Illinois Register because it was refused by that publication. The notices did not provide an address where public comments could be sent. Plaintiffs contended that this amended inflation update procedure was invalid because it was not promulgated in accordance with the rulemaking procedures set forth in the Illinois Administrative Procedure Act.

IDPA argued that the amended update procedure was exempt from the notice and publication requirements by Section 5(c) of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par. 1005(c)) because the State Plan is a contractual arrangement with the Federal government. Section 5(c) states: "The notice and publication requirements of this Section do not apply to a matter relating solely to agency management, personnel practices, or to public property, loans or contracts" (Ill. Rev. Stat. 1983, ch. 127, par. 1005(c)).

After receiving approval from the legislative leaders, the Joint Committee on Administrative Rules filed an Amicus Brief with the Illinois Supreme Court on this issue arguing that the inflation update procedure did not fall within the contracts exception. The Illinois Supreme Court agreed with the appellate court's interpretation of the contracts exception in which the lower court stated:

We are persuaded that under the IAPA, as under the Federal APA, a matter comes under the contract exception only when contracts are clearly and directly involved. (See Humana of South Carolina, Inc. v. Califano, (590 F.2d 1070, 1082, (D.C. Cir. 1978)). We believe that with regard to nursing homes, contracts, whether State - Federal or Agency - providers, are not clearly and directly involved, but rather, are only incidental means to the end of providing nursing home care for needy individuals. Accordingly, we conclude that the amended inflation update procedure is not a matter relating to contracts within the meaning of the IAPA. (118 Ill. App. 3d 504, 511)

The court also stated that it is clear from Section 5.01 of the Illinois Administrative Procedure Act that the rulemaking procedure is intended to give interested persons an opportunity to submit their views and comments on rulemaking changes and that an agency must consider all submissions received. The court acknowledged that there are certain statutory exceptions to the notice and comment procedures, but that exceptions are of a limited nature and should be appropriately applied.

The court also agreed with the appellate court ruling that the amended inflation update procedure fell within the purview of the IAPA because the

Illinois Public Aid Code incorporates the IAPA and the Illinois Public Aid Code specifically requires rulemaking pursuant to the IAPA "during the process of establishing the payment rate for skilled nursing and intermediate care services, or when a substantial change in rates is proposed," in order to provide "an opportunity for public review and comment on the proposed rates prior to their becoming effective." (Ill. Rev. Stat. 1979, ch. 23, par. 5-5.7) (118 Ill. App. 3d 504, 512). The court found that the amended procedure fell within the definition of "rule" found in Section 3.09 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par. 1003.09) and thus the failure of IDPA to follow the notice and comment procedures required by Section 5 of the Illinois Administrative Procedure Act rendered the amended procedure invalid.

Senn Park II

Following the decision of the appellate court in Senn Park I, IDPA promulgated Emergency Rule 4.14221 implementing the amended inflation update procedure pursuant to Section 5.02 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par. 1005.02).

In Senn Park II, the plaintiffs filed a complaint for declaratory judgement in the Circuit Court of Cook County, asking the court to declare Emergency Rule 4.14221 void and of no effect because there was no "emergency" as that term is defined in Section 5.02 of the IAPA, and because the rule was promulgated in violation of Federal notice requirements (42 C.F.R. 447.205 (1979)). On December 30, 1980, the emergency rule in question was withdrawn. The parties then filed cross-motions for summary judgment. The trial court, in granting defendant's motion, held that the emergency rule was valid and that plaintiffs had to bring their monetary claims in the Court of Claims.

On appeal, the appellate court held that although the rule was withdrawn, the validity of the rule was at issue in order to determine the amount of reimbursement the plaintiffs were entitled to under the writ of mandamus to be issued in Senn Park I. The appellate court further held that the circuit court had erred in finding the emergency rule valid because there was no emergency as that term is defined under the IAPA and because the

defendant failed to comply with the notice and comment requirements of the Federal Regulations. Lastly, the appellate court held that the circuit court had erred in ordering that the plaintiffs' monetary claims must be brought in the Court of Claims.

The Illinois Supreme Court affirmed both appellate court decisions.

2. In Sleeth v. Illinois Department of Public Aid (125 Ill. App. 3d 847, 466 N.E.2d 703 (3 Dist. 1984)), the appellate court considered an appeal from a Department of Public Aid decision to terminate disability benefits in five cases. The court found that the procedure utilized by the Department (Manual Release No. 83.5) which required applicants who were denied disability benefits to submit proof of disability within 14 days of the filing of appeal, was a "rule" under the Illinois Administrative Procedure Act. Section 3.09 of the Illinois Administrative Procedure Act states:

"Rule" means each agency statement of general applicability that implements, applies, interprets, or prescribes law or policy, but does not include (a) statements concerning only the internal management of an Agency and not affecting private rights or procedures available to persons or entities outside the Agency, (b) informal advisory rulings issued pursuant to Section 9, (c) intra-agency memoranda or (d) the prescription of standardized forms. (Ill. Rev. Stat. 1983, ch. 127, par. 1003.09).

The Department contended that Manual Release 83.5 was merely intra-office memoranda, not subject to the rulemaking requirements of the Illinois Administrative Procedure Act. The court reasoned that the memorandum in question affected private rights and procedures available to persons outside the Illinois Department of Public Aid and that this type of statement by an agency is specifically included within the definition of "rule" under the Illinois Administrative Procedure Act. Since the memorandum was not properly promulgated pursuant to the procedures set forth in the Illinois Administrative Procedure Act, the court held the rule invalid and determined that the procedures followed by the Department violated State law.

3. In Manor Healthcare Corp. v. Northwest Community Hospital, Illinois Department of Public Health, Illinois Health Facilities Planning Board, 129 Ill. App. 3d 291, 472 N.E.2d 492 (1 Dist. 1984), the court heard a challenge to Illinois Health Facilities Planning Board (Board) Rule 3B03.C.04 which provided for a priority when conflicting figures arose in determining the need for nursing home beds in an area. Central Health Care Corporation (Central) filed a request to the Board for a permit to construct a 200 bed nursing home in close proximity to Northwest Community Hospital. The Board held a hearing wherein plaintiff voiced objections to the grant of a permit to Central. One of the major considerations in the granting of a permit by the Board was a determination of need for such a facility in the area. Such a determination was to be based in part on the bed need as determined by the Illinois Department of Public Health's rules. After the hearing, the Board indicated to Central its intent to deny the certificate of need for such a proposed facility on other grounds. Subsequently, Central modified the plans for the nursing home and the Board approved its application and shortly thereafter issued a permit for construction of the 200 bed nursing facility. Upon issuance, plaintiff requested that the Board reconsider its decision to grant Central a permit. The Board denied plaintiff's request and plaintiff then filed a complaint seeking judicial review of the Board's decision and requesting an injunction against construction of the facility. The circuit court affirmed the Board's decision and this appeal followed.

In determining whether to grant such a permit, the Board considered the need for beds of such a facility (as determined by the rules of Illinois Department of Public Health). Moreover, the rule provided that where the bed figures as determined by the Department indicate that there is a need for additional nursing care beds in the area, such needed beds must be added to existing facilities unless the need shown is 200 beds or more. (Ill. Health Facilities Planning Board Rule 3B.09.C.02) Using the Department of Public Health's Rules, it was determined that 291 beds were needed in the area. This need was calculated at the time of Central's application in January of 1983. In June of 1983, two months prior to approval, the need was updated to show a need of only five beds in the area. However, the Board's rules provided for this circumstance. Rule 3B.03.C.04 states: "If the bed need figures for a service planning area change during a project's review because

of updating the inventory, the figures which indicate the largest additional bed need or smallest excess bed situation shall be used as the standard of review." The court found that this rule was applicable and the bed need figure used by the Board was correct.

The plaintiff contended that when interpreting agency rules, the court must recognize a distinction between administrative rules based upon professional or technical expertise and rules involving no expertise. The plaintiff reasoned that an easier standard of review should be used when interpreting rules involving no expertise. The court rejected this distinction as impractical. The court found that "administrative regulations will be set aside by a reviewing court only if they are found to be clearly arbitrary, capricious or unreasonable" (84 Ill. Dec. 538). Additionally, regulations, like statutes, are presumptively valid and the one attacking such has the burden of establishing their invalidity.

The plaintiff further contended that Appendix A of the Department of Public Health's rules which was used to calculate the bed need, is a rule which was not published in conformance with the Illinois Administrative Procedure Act (IAPA) (Ill. Rev. Stat. 1983, ch. 127, par. 1001 et seq.) and was, therefore, invalid. Thus, the plaintiff contended the Board erred in utilizing the 291 bed need figure contained in Appendix A as a standard for review of Central's application. The court disagreed, however, and held that Appendix A was not a rule within the meaning of the IAPA. Section 3.09 defines "rule" as "each agency statement of general applicability that implements, applies, interprets, or prescribes law or policy." (Ill. Rev. Stat. 1983, ch. 127, par. 1003.09) The court reasoned that Appendix A does not implement, apply, interpret, or prescribe law or policy in the area. It merely reflects a statistic showing the bed need inventory in the area. Appendix A merely applies formulae set forth in Board Rule 3B.09.B.03 to determine the bed need inventory for the area. The court concluded that the appendix did not, therefore, have to be promulgated pursuant to the IAPA.

4. In Escalona v. Board of Trustees, State Employees Retirement System, (127 Ill. App. 3d 357, 469 N.E.2d 297, (1 Dist. 1984) the claimant alleged that the defendant's decision denying claimant's disability benefits was an

improper exercise of discretion and that the defendant violated claimant's right to due process since no standards were established by the defendant concerning the exercise of its discretion.

Claimant was a former state employee who received disability benefits from November 5, 1981 until February 2, 1982 and attempted to extend her disability leave. After review of a physician's examination, the defendant notified claimant that her benefits would cease on September 30, 1982. Claimant appealed to the defendant's executive committee which affirmed defendant's finding. Claimant re-appealed and submitted additional medical evidence. The executive committee ordered an additional review of the file and denied the appeal. On administrative review, the trial court affirmed defendant's decision, finding that it was not against the manifest weight of the evidence or contrary to law.

The first issue in this case was whether the absence of proper standards and guidelines in the statute warranted a reversal. The court reasoned that the "precision of the standard set by the legislature must necessarily weigh according to the nature of the particular problem involved." (469 N.E.2d 300) In order to make a decision on eligibility of benefits, the defendant must first determine whether a state employee is disabled, and the applicable statute provides that a non-occupational disability benefit may be granted if, among other requirements, "the member is found upon medical examination to be mentally or physically incapacitated to perform the duties of the member's position" (Ill. Rev. Stat. 1983, ch. 108½, par. 14-124(2)). The court reasoned that the legislature has provided a standard which sufficiently specific since each decision must be supported by a medical examination.

The claimant additionally contended that the failure of the legislature to enact specific guidelines constitutes a denial of due process. The court found, however, that although due process requires that an Act provide sufficient standards to guide an administrative body in the exercise of its discretionary power (People ex. rel. Stamos v. Public Building Com., 238 N.E.2d 390, 40 Ill. 2d 164 (1968)), the statute in this case provided sufficient guidance to the State Employees' Retirement System.

The claimant also contended that the defendant failed to comply with the provisions of the Illinois Administrative Procedure Act (IAPA) because the defendant did not enact guidelines in its rules which were more specific than the standard articulated in the statute. Section 4.02 of the IAPA provides:

Each rule which implements a discretionary power to be exercised by an Agency shall include the standards by which the Agency shall exercise the power. Such standards shall be stated as precisely and clearly as practicable under the conditions, to inform fully those persons affected. (Ill. Rev. Stat. 1983, ch. 127, par 1004.02).

The court reasoned that in the context of disability determinations, it would be "impracticable - if not impossible - for [the defendant] to articulate more precise standards." (82 Ill. Dec. 767) Since the defendant must find that an individual is incapacitated to perform the duties of that particular individual's position, it appears that the type of standard demanded by the claimant could be enacted only if the defendant were to adopt separate standards for each job description. Even if this were practical, the court reasoned that this would "eliminate the flexibility necessary for decisions of this type." (82 Ill. Dec. 767). The court also acknowledged that where possible, the defendant published rules to further inform those persons affected by its decisions. The court concluded that the defendant has "provided as much guidance as possible without turning the whole process into a mechanical determination which would clearly be inappropriate in this context." (82 Ill. Dec. 767)

5. In Kendor v. The Department of Corrections, 126 Ill. App. 3d 646 467 N.E.2d 1107, (1 Dist. 1984) the appellate court interpreted Section 12(a) of the Illinois Administrative Procedure Act (IAPA) (Ill. Rev. Stat. 1983, ch. 127, par. 1012(a)) and determined that the Act does not preclude the use of hearsay evidence in administrative hearings. The court stated that Section 12 of the IAPA provides that "the rules of evidence not admissible under civil procedure rules may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs" (Ill. Rev. Stat. 1983, ch. 127, par. 1014(a)). The court reasoned that a transcript of a witness' testimony admitted by the hearing

officer of the Department and the witness was in fact available to testify in person is the type of hearsay evidence commonly relied upon by a reasonable prudent man and is, therefore, admissible in administrative hearings under Section 12 of the IAPA.

6. In Pioneer Processing, Inc. v. Environmental Protection Agency, 102 Ill. 2d 119, 464 N.E.2d 238 (1984), the Illinois Supreme Court considered a case in which the appellants contended that the Illinois Environmental Protection Agency (IEPA) had failed to follow the contested case procedures found in the Illinois Administrative Procedure Act (IAPA) (Ill. Rev. Stat. 1983, ch. 127, par. 1001 et seq.) as applied to proceedings before the IEPA for the issuance of a permit to Pioneer Processing, Inc. to construct a hazardous-waste-disposal site.

The main issue on appeal was whether the IEPA followed the correct procedure when it granted a permit to, and considered ex parte communications from Pioneer during the permit procedure. Section 12(c) of the IAPA prohibits ex parte communications during contested case procedures.

The court considered whether the contested case procedures were, in fact, applicable to this proceeding. Section 16(a) of the IAPA provides that "when any licensing is required by law to be preceded by notice and opportunity for hearing, the provisions of this Act concerning contested cases shall apply." Section 39(c) of the Environmental Protection Act provides that:

The Agency shall notify the State's Attorney and the Chairman of the County Board of the county in which the facility is located and each member of the General Assembly from the legislative district in which that facility is located and to the clerk of each municipality any portion of which is within 3 miles of the facility, prior to the issuance of a permit to develop a hazardous waste disposal site, the Agency shall conduct a public hearing in the county where the site is proposed to be located. (Ill. Rev. Stat. 1979, ch. 111½ par. 1039(c))

Since the Act requires both notice and an opportunity for a hearing, the court held that the contested case provisions of the IAPA were applicable to

the proceedings before the IEPA and that the IEPA violated Section 15 of the IAPA (Ill. Rev. Stat. 1983, ch. 127, par. 1015) by allowing ex parte communications with Pioneer Processing. The court held that since the provisions of the IAPA were violated by the IEPA, the decision to issue a permit to Pioneer was void.

7. In Commonwealth Edison Co. v. Pollution Control Board 127 Ill. App. 3d 446, 468 N.E.2d 1339 (1 Dist. 1984), Commonwealth Edison challenged the Environmental Protection Agency's (IEPA) rules governing hazardous waste management alleging that the regulations were invalid because they were promulgated pursuant to an illegal delegation of rulemaking authority by the Pollution Control Board (PCB) to the IEPA.

The U.S. Congress adopted the Resource Conservation and Recovery Act of 1976 (RCRA) to establish a national system for regulating the handling of hazardous wastes. The same Act authorized each of the fifty states to develop their own programs for regulating hazardous wastes in lieu of the federal program. However, the federal rules contemplate a hazardous waste program administered by a single agency. In Illinois, such administration is accomplished through a bifunctional administrative structure. The Illinois Legislature elected to administer its own hazardous waste program as authorized by RCRA, and to that end, it directed PCB to promulgate the regulatory framework for hazardous waste management in Illinois. In response, the PCB adopted two sets of rulemaking "In re Phase II RCRA Rules", PCB R82-19, and "In Re Technical Corrections to Phase II RCRA Rules", PCB R83-24. The legislature directed PCB to adopt rules for the Illinois hazardous waste maintenance program which "are identical in substance to federal regulations or amendments thereto promulgated by the administrator of the U.S. Environmental Protection Agency." (Ill. Rev. Stat. 1983, ch. 111½, par. 1022.4) The PCB adopted Regulations 702.110, 702.148, 702.184(f) and 705.128(d) providing the procedure for the IEPA's termination of permits for waste management facilities. The petitioners alleged that the power to terminate permits was vested in the PCB, not the IEPA, and that such authority cannot be delegated to the IEPA under the law. However, the Board construed the authority in the challenged sections differently. According to PCB's construction, the IEPA only has the authority to revoke

or terminate permits in conjunction with the permitting process or in the case of a transfer of permit, where the proposed transferee fails in some manner to qualify for a permit. The court found that the PCB's construction was a reasonable one and, therefore, upheld the validity of the rules in question.

The petitioners also challenged PCB rules which authorize the IEPA to adjust certain requirements for hazardous waste facilities in recognition of the unique characteristics of the sites. The petitioners alleged that only the PCB could establish control standards and that the rules in question illegally delegate such authority to the IEPA.

The court reasoned that the IEPA is directed to administer each rule according to the definite and certain standard contained therein, and is not given discretion to determine what, if any, standard should apply. Therefore, the court found that there was, in fact, no improper delegation of the PCB's authority to establish environmental quality standards and that the rules were valid.

The petitioners next challenged the rule implementing the State's administration of the RCRA program. The State had proposed its own program to implement RCRA on the State level as provided in the federal law. However, the State had not yet received approval of its program from the USEPA. Therefore, the Board was in fact operating under the Federal RCRA program and prior Illinois Waste Management law. The petitioners alleged that the rules implementing this policy were without statutory authority. However, the court reasoned that the legislature had voiced its intent to provide for continuing government supervision of this very pressing public health problem. To void this rule, the court stated, would be in fact to frustrate this intent for continuing supervision. Without such transition rules, a gap period would be created in which the State would be powerless to issue any permits for hazardous waste facilities. The court reasoned that until the USEPA issues authorization to the State of Illinois to issue permits under a state administered RCRA program, the transition rule was valid.

The petitioners stated that the Federal regulations which implement RCRA are accompanied by appendices numbered I, II, IV and V. The

petitioner's alleged that these four appendices, not having been actually incorporated by reference pursuant to the IAPA, are invalid. The court determined, however, that by merely referring to those federal appendices by reference, such provisions become part of the Illinois regulatory structure. "Whether the federal appendices are incorporated by reference, or simply identified with a signal "see", the result is the same and the appendices become a part of the administrative law of this State" (82 Ill. Dec. 563).

8. The Illinois Administrative Procedure Act was written to promote the legislative oversight of administrative rulemaking in Illinois. The Act also includes certain guarantees to persons who challenge agency rules. One of these safeguards is found in Section 14.1(b) of the Illinois Administrative Procedure Act (IAPA) (Ill. Rev. Stat. 1983, ch. 127, par. 1014.1(b)) which provides for attorney's fees in cases where agency rules are invalidated by a court.

In the Board of Education of School District No. 170, Cook County v. Illinois State Board of Education, 122 Ill. App. 3d 471, 481 N.E.2d 567 (1 Dist. 1984) the plaintiffs sought to retroactively apply Section 14.1(b) of the Illinois Administrative Procedure Act (IAPA) (Ill. Rev. Stat. 1983, ch. 127, par. 1014.1(b)), which allows the recovery of attorney's fees, for litigation commenced prior to the effective date of Section 14.1. The litigation in question in this case was pending on appeal before the Illinois Supreme Court on January 1, 1982 when Section 14.1 went into effect.

The court reasoned that "statutes which create new obligations are applied only prospectively in the absence of express language to the contrary." (481 N.E.2d 569) The court added that "[w]hen a change of law merely affects the remedy or law of procedure, all rights of action will be enforceable under the new procedure, without regard to whether they occurred before or after such change of law and without regard to whether or not the action has been instituted, unless there is a saving clause as to existing litigation. Changes in procedure or existing remedies will not be applied retrospectively, however, where a vested constitutionally protected right will be derived by such application" (Maiter v. Chicago Board of Education, 82 Ill. 2d 373, 415 N.E.2d 1034, 1042 (1980)).

The question before the court then became whether this new section affected a substantive right of the parties or merely governed the manner and forum in which those rights could be enforced. The court investigated the legislature's intent in passing the legislation creating Section 14.1 of the IAPA. The court concluded that the legislature had a two-fold purpose in enacting Section 14.1, that was to discourage enforcement of invalid rules and to give those subject to regulation incentive to oppose doubtful rules where compliance would otherwise be less costly than litigation. (Board of Education v. Illinois State Board of Education, 77 Ill. Dec. 944, 481 N.E.2d 567 (1 Dist. 1984)) The court found that neither of these goals would be furthered by the imposition of retroactive application of Section 14.1 and liability in this case, and therefore declined to retroactively apply this Section of the Act.

In Gonzalez-Bland N.I.D. v. Clayton, 120 Ill. App. 3d 848, 458 N.E.2d 1156 (1 Dist. 1983), the court interpreted Section 14 of the IAPA which provides for the recovery of attorneys fees in cases in which a party has an administrative rule invalidated. The plaintiff in this case was denied attorneys fees and this appeal resulted. The court stated that the right to recover attorney's fees did not exist at common law. However, Section 14.1(b) of the IAPA provides for such recovery if a party has "an administrative rule invalidated by a court for any reason." The court went on to define "invalid" as being without legal force and effect. Although the appellate court reversed a Department of Registration and Education decision not to award temporary certificates of registration required for participation in residency training programs at Illinois hospitals, the court did not invalidate any Department rule or regulation in doing so, and thus attorney's fees were denied.

9. In Lipman v. Board of Review of the Department of Labor, 123 Ill. App. 3d 176, 462 N.E.2d 798 (1 Dist. 1984) the appellate court considered a case where the appellant argued that the Board of Review of the Department of Labor erroneously construed a Departmental regulation and, in the alternative if the Board of Review's interpretation was valid, then the regulation was unconstitutionally overbroad and vague. The court noted that "[w]hile the interpretation given by an administrative Agency to its rules is entitled to

respectful consideration, an erroneous construction by the Agency is not binding." (462 N.E.2d 800) Although courts have been reluctant to disagree with an agency's interpretation of its own rules, this court found that the Board's interpretation of Regulation 17F was clearly erroneous. Regulation 17F states, in part, that:

When an individual files a claim or reports with respect to a week not later than one year after the first day of the week, such claim may be antedated to the first day of the week, or the individual may be deemed to have reported on his report day for the week, as the case may be, in any instance in which failure to file or report at an earlier time is established by the individual to be due to

1. The individual's unawareness of his rights under the Act

Under the Board's interpretation, the only claimants who could receive benefits under this rule would be those who could show that they were unaware of the existence of the Unemployment Insurance Act. The court determined that this interpretation was contrary to the rule's plain meaning and that it does not foster the remedial purpose of the Act, which is to aid people who have become involuntarily unemployed.

10. In United Consumers Club, Inc. v. Attorney General, 119 Ill. App. 3d 701, 456 N.E.2d 856 (1 Dist. 1983) the Illinois appellate court discussed the existence of legislative and interpretive rulemaking by State agencies. In the suit, a corporation which derived its principal source of income from the sale of memberships in buyers clubs sought injunctive relief against comprehensive rules adopted by the Attorney General regulating the operation of buyers clubs. Plaintiff contended that Section 4 of the Consumer Fraud and Deceptive Business Practices Act (Ill. Rev. Stat. 1983, ch. 121½, par. 264) does not confer upon the Attorney General the authority to promulgate binding substantive rules and regulations. Section 4 states in part that the Attorney General may, in order to "accomplish the objectives and to carry out the duties prescribed by this Act ...promulgate such rules and regulations as may be necessary, which rules and regulations shall have the force of law."

The court held that (1) the Consumer Fraud and Deceptive Businesses Practice Act confers upon the Attorney General the authority to promulgate

binding substantive rules and regulations; (2) such rules did not unconstitutionally impair obligation of contracts; and (3) the Act contains a valid declaration of legislative authority to the Attorney General. The key issue in this case involved the distinction by the court between two separate types of rulemaking authority granted by the Illinois Legislature. Legislative rulemaking authority is granted to an agency when a statute expressly authorizes the agency to promulgate rules. Rules and regulations adopted pursuant to such authority have the full force and effect of law. The court, however, also recognized that agencies have implicit authority to promulgate interpretive rules. An interpretive rule is a rule which "an Agency issued without exercising delegated legislative power to make law through rules. Interpretive rules may be substantive in the sense of addressing substantive rather than procedural issues of law and legislative rules may be procedural. The relevant distinction between legislative and interpretive or any other non-legislative rules is not the nature of the questions they address but the authority and intent with which they are issued and the resulting effect on the power of a court to depart from the decision embodied in the rule". (456 N.E.2d 856)

Federal case law has long made the distinction between legislative and interpretive rules and Illinois has also adopted this distinction.

11. Courts have been reluctant to overturn administrative rules except where they are clearly contrary to the intent of the legislature in the authorizing legislation. However, in the case of Illinois Department of Transportation v. Keller Development Corporation, 122 Ill. App. 3d 1038, 462 N.E.2d 532 (5 Dist. 1984), the Department filed suit to enjoin the use of a billboard by the defendant. The Department's rules did not allow the reconstruction of a non-conforming billboard without a permit. The court reasoned that a "statute which is being administered may not be altered or added to by the exercise of a power to make regulations thereunder" and therefore held this rule to be invalid. (78 Ill. Dec. 415) The court found that the Department had in fact "usurped the power of the General Assembly by adding a substantive provision to the Act which greatly increases the severity of the Act". (78 Ill. Dec. 416) The court stated that the Department was doing more in this case than merely administering the Highway Control Advertising

Act of 1971 (Ill. Rev. Stat. 1981, ch. 121, par 501 et seq.) because it was deciding what the law ought to be, which is a legislative function. The court affirmed the denial by the lower court of the Department's petition to enjoin the defendants' use of the billboard.

SECTION TWO

STATISTICAL SUMMARY

This section analyzes the rulemaking activity of all State agencies. During 1984, 704 general, emergency and peremptory rules were promulgated by 61 state agencies and reviewed by the Joint Committee on Administrative Rules. In addition, the policies of 11 agencies were reviewed under the five year review program and the complaint review program. Agencies also adopted 77 internal organization rules and rules adopted pursuant to the Illinois Freedom of Information Act (Ill. Rev. Stat. 1984 Supp., ch. 116, pars. 201 et seq.)).

During 1984, the Joint Committee issued one or more Statements of Objections to 147 rulemakings. A total of 289 objections to these 147 general, emergency and peremptory rulemakings were issued. (This total does not include 11 Statements of Objection issued to existing rules during the five year review program and the complaint review program. For these numbers, see Table 7).

A discussion of rulemaking activity in 1984 would not be complete without mention of the codification deadline of October 1, 1984. On that date, any regulation not issued in codified format was repealed by operation of law. More than 500 rules were so repealed.

The vigor of rulemaking activity in Illinois during 1984 may be illustrated by noting that 25,436 pages of information, all of which related to rulemaking in one form or another, were published in the Illinois Register during the year. This number represents an 7,866 page increase from 1983. Some sets of rules contained hundreds of pages, some sets were very complex, and all were of concern to the affected public.

TABLE FOUR presents an overview of the rulemaking activities for Illinois agencies for 1984. During this year, the Joint Committee reviewed 604 "general" proposed rules, 78 emergency rules, and 22 peremptory rules for a total of 704 agency rules.

Sixty agencies initiated 604 general rulemakings in 1984. (See Section One, Review of Proposed Rulemaking, pages 12-26, for an explanation of general or proposed rulemaking.) Eight of these agencies, each of which initiated 25 or more general rulemakings, account for 53% of the total rulemaking in this category. Twenty-nine State agencies adopted 78 emergency rules. (See pages 27-30, for an explanation and discussion of emergency rulemaking.) One agency, the Department of Central Management Services, adopted 13 emergency rules in 1984, 17% of the total. In 1984, 4 State agencies adopted 22 peremptory rules. (See pages 27-34 for an explanation of peremptory rulemaking.) One agency, the Pollution Control Board, adopted 11 peremptory rules, 50% of the total.

Several new agencies promulgated rules for the first time in 1984. The Illinois Educational Labor Relations Board was created pursuant to Public Act 83-1014 (effective January 1, 1984) which enacted the "Illinois Educational Labor Relations Act" (Supp. to Ill. Rev. Stat. 1983, ch. 48, pars. 1701 et seq.). In addition, the State Labor Relations Board and the Local Labor Relations Board were created pursuant to Public Act 83-1012 (effective July 1, 1984) which enacted the "Illinois Public Labor Relations Act" (Supp. to Ill. Rev. Stat. 1983, ch. 48, par. 1601 et seq.) These two agencies jointly promulgated four rules through the general rulemaking process. Other agencies have promulgated rules jointly as indicated in the footnotes to Table Four. The Department of Human Rights and the Human Rights Commission jointly promulgated one rule, and the Department of Public Health and the Health Facilities Planning Board jointly promulgated two rules.

Other agency changes have taken place as indicated in the footnotes to Tables Five and Six. The Department of Alcoholism and Substance Abuse, once a part of the Dangerous Drug Commission, became a separate department in 1984. The Bureau of Employment Security, a division of the Department of Labor also became a separate department in 1984. Also, the Department of Personnel and the Department of Administrative Services combined in 1982 and the name was changed to the Department of Central Management Services.

TABLE FIVE presents a comparison of general rulemakings by agency for each year from 1978 through 1984. During this 7 year period, there has

been a trend toward increased rulemaking. The largest changes occurred from 1979 to 1980 (a 19% increase), from 1981 to 1982 (a 9% decrease), and from 1982 to 1983 (a 15% increase). The present year, 1984, shows a 3% increase in general rulemaking over 1983. This figure would be larger, but several agencies which would have normally proposed repealers for existing rules allowed the rules to be repealed by operation of law instead. Two factors seem to have contributed to this increase. More agencies promulgated general rules during 1984 (65) than in any year since 1981. Also, in 1984 there was an increase in the number of agencies that promulgated a larger number of rules (25 or more). Eight agencies proposed 25 or more rules, while the equivalent number for earlier years was as follows: 5 in 1983, 4 in 1982, 5 in 1981, and 5 in 1980. On the other hand, during 1984, there were also a large number of agencies that proposed only a few rules. Out of 60 agencies promulgating general rules in 1984, 24 of these agencies were responsible for only 1 or 2 rulemakings.

The two agencies with the highest number of general rulemakings for 1984 were the Department of Public Aid, with a total of 67, and the Department of Public Health, with a total of 53. These two agencies have consistently had a high level of rulemaking activity over the years, and have had the highest number of rulemakings of any agencies for five years out of the last seven years. During the past two years, the Department of Public Aid and the Department of Public Health have occupied the first and second place. This fact is due, at least in part, to the changes to the rules promulgated by these agencies due to changes made at the federal level. The Department of Conservation has also shown a consistently high level of general rulemaking from 1978 through 1984.

TABLE SIX presents a comparison of emergency and peremptory rulemakings by agency from 1980 through 1984.

The total number of emergency rules increased dramatically from 49 in 1983 to 78 in 1984, a 59% increase. However, it should be noted that 1983 presented an unusually low total compared to the entire 5 year period. The total number of agencies adopting one or more emergency rules has remained consistent, 25 agencies in 1983 and 28 agencies in 1984. In 1984, only 3

agencies, each adopting six or more emergency rules, accounted for 37% (25) of the total. Of these 3, the Department of Central Management Services adopted 13 emergency rules, 10 of which amended the "Pay Plan."

Figure A compares the total emergency rulemakings with the total objections to emergency rulemakings from 1980 through 1984. A comparison of Statements of Objection issued to agency rules from 1980 through 1984 indicates that the increase in the use of the emergency rulemaking process has been paralleled by an increase in the number of objections which the Joint Committee has issued to emergency rulemakings. (For the number of emergency rules which resulted in one or more objections in 1984 see Figure B.)

Figure A

	1980	1981	1982	1983	1984
Total Emergency Rules	97	60	84	49	78
Total Objections*	13	4	12	8	18

*Individual rules may receive more than one objection.

The total number of peremptory rules has increased from 16 in 1983 to 22 in 1984, a 38% increase. Again, this increase seems to be a result of lower-than-normal peremptory rulemaking activity during 1983. The total for 1984 is comparable to the totals for 1981 and 1982.

TABLE SEVEN presents a summary of the Statements of Objection to agency rules issued by the Joint Committee in 1984. Thirty-nine agencies received one or more objections to rules in 1984. The Joint Committee issued 266 objections to general rules, 18 objections to emergency rules, 5 objections to peremptory rules and 11 objections to existing rules, for a total of 300 objections. A summary of the individual objections and recommendations which are analyzed in Table Seven are contained in "Section Three:

Objections and Recommendations Issued by the Joint Committee in 1984." Section Three provides more detail for each objection, as well as citations to the Illinois Register where the complete text of the material, and the agency's response to Statements of Objection has been published (see pages 105-203).

TABLE EIGHT presents the agency responses to Statements of Objection issued by the Joint Committee on Administrative Rules in 1984. Agencies are required to respond within 90 days to Statements of Objection to proposed (general) rules issued by the Joint Committee. The responses are published in the Illinois Register. Failure to respond to the Joint Committee's objection to a proposed rule within this time constitutes withdrawal of the proposed rule, pursuant to Section 7.06(f) of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par. 1007.06(f)).

"Refuse," as found in Table Eight means the agency has responded to the objection by refusing to modify or withdraw the proposed rule. In addition, if an agency fails to respond to a Joint Committee objection to an emergency rule or a peremptory rule, this is counted as a refusal to modify or withdraw the rule, pursuant to Section 7.07(g) of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par. 1007.07(g)).

"Modify or Amend (Failure to Remedy)" as found in Table eight means that the agency has agreed to modify the proposed rule to meet the Joint Committee's objection. Occasionally, an agency modification fails to meet the Joint Committee's objection. In such cases, the Joint Committee issues a "Statement of Failure to Remedy the Objection," which is published in the Illinois Register. This action is recorded in Table Eight in parenthesis under the "Modify or Amend" column. While agencies are not required to respond to objections to emergency or peremptory rules, the Department of Public Health agreed to modify its emergency rules in response to 5 objections issued to those rules. In addition, the Department agreed to to modify a peremptory rulemaking. Therefore, the total of 99 agreements to modify include these additional responses.

The "Withdraw or Repeal" column in Table 8 consists of two categories of agency responses. They are those instances when an agency has withdrawn the section of a proposed rule in response to an objection, and instances when a proposed rule has been automatically withdrawn due to the failure of the agency to respond within 90 days as required by Section 7.06(f) of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par. 1007.06(f)).

In response to the 300 objections issued by the Joint Committee in 1984, agencies refused to modify or withdraw the rule 156 times, modified or amended the rule 96 times (the Joint Committee found that 16 of the modifications failed to remedy the objection), and withdrew the rule 49 times. The total agency response (301) is greater than the total objections (300) because an agency may respond in more than one way to a multiple objection.

Figure B analyzes the agency response by specific rule type. Agencies responded to 266 objections to general rulemakings by issuing 135 refusals to modify or withdraw a rule, 84 agreements to modify or amend, and 48 withdrawals. The total agency response is greater than the total objection because the Department of Nuclear Safety responded in more than one way to a Joint Committee objection. Agencies responded to 18 objections to emergency rulemakings by issuing 12 refusals, 5 agreements to modify, and 1 withdrawal. Agencies responded to 5 objections to peremptory rules by issuing 4 refusals and 1 agreement to modify, and to 11 objections to existing rules by issuing 5 refusals and 6 agreements to modify.

Figure B

Agency Response to 1984 Objections By Specific Rule Type

	<u>Refuse</u>	<u>Modify</u>	<u>Withdraw</u>
Objections Issued to General Rules (266)	135	84	48
Objections Issued to Emergency Rules (18)	12	5	1
Objections Issued to Peremptory Rules (5)	4	1	0
Objections Issued to Existing Rules (11)	5	6	0
TOTAL (301)	<u>156</u>	<u>96</u>	<u>49</u>

TABLE NINE shows the total number of objections issued by the Joint Committee compared with the total number of agency responses, for a 7 year period. For the year 1984, 49 of the rules that received Statements of Objection were withdrawn or repealed. (This "Withdrawn or Repeal" category consists of two categories of agency responses. These are the instances when an agency withdrew the section of a proposed rule in response to an objection issued by the Joint Committee, and instances when a proposed rule has been automatically withdrawn due to the failure of the agency to respond within 90 days as required by Section 7.06(f) of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par. 1007.06(f))). This response accounts for about 16% of the agencies' responses and represents a considerable increase compared to 1982 and 1983. The Department of Children and Family Services, with 12 withdrawals, accounts for 25% of the withdrawals in response to objections issued by the Joint Committee during 1984 (See Table Eight). This occurred, in part, when the Department withdrew sections of the proposed rule "Grants-in-Aid" (89 Ill. Adm. Code 360) after the Joint Committee issued 11 objections to this rulemaking.

For the year 1984, agencies agreed to modify or amend rules 96 times in response to Joint Committee objections. This response accounts for 32% of the total agency response and reverses the trend over the years toward agreement in this area. Concurrently, agency refusal to modify or withdraw a rulemaking in response to an objection has continued the upward trend from 1983. The Department of Corrections, which issued 30 refusals to modify or withdraw a general rule, during 1984, accounts for 19% of the total refusals received to objections issued by the Joint Committee to all types of rulemaking.

TABLE FOUR
RULEMAKING BY AGENCY FOR 1984

<u>Agency</u>	<u>General</u>	<u>Emergency</u>	<u>Peremptory</u>
<u>Code Departments</u>			
Aging	6		
Agriculture	41	1	
Alcoholism and Substance Abuse	2	1	
Central Management Services	18	13	
Children and Family Services	23		1
Commerce and Community Affairs	20		
Conservation	36	1	
Employment Security	3	3	
Financial Institutions	9		
Human Rights*	1		
Insurance	25		
Labor	5	3	
Law Enforcement	2		
Mental Health and Developmental Disabilities	5		
Mines and Minerals	4		
Nuclear Safety	4	2	
Public Aid	67	6	9
Public Health*	53	2	1
Registration and Education	26	6	
Rehabilitation Services	28		
Revenue	9	1	
Transportation	10	1	
Veterans' Affairs	1		
<u>Constitutional Offices</u>			
Attorney General	3		
Auditor General	3		
Comptroller	3		
Secretary of State	20	3	
Treasurer	1		
<u>Miscellaneous Agencies</u>			
Abandoned Mined Lands Reclamation Council	2		
Capital Development Board	2		
Civil Service Commission	2		
Commerce Commission	43	3	
Dangerous Drugs Commission	2		
Educational Facilities Authority	1		
Educational Labor Relations Board	4	4	

TABLE FOUR
RULEMAKING BY AGENCY FOR 1984
(Continued)

<u>Agency</u>	<u>General</u>	<u>Emergency</u>	<u>Peremptory</u>
Elections	4	2	
Environmental Protection Agency	21	2	
Farm Development Authority	2	1	
Fire Marshal, State	5	2	
Health Facilities Planning Board*	2		
Guardianship and Advocacy Commission	1		
Housing Development Authority	3	1	
Human Rights Commission*	2		
Industrial Commission	2	2	
Local Governmental Law Enforcement Officers Training Bd.	1		
Labor Relations Board, Local*	4	4	
Labor Relations Board, State*	4	4	
Law Enforcement Merit Board	4	2	
Pollution Control Board	21	3	11
Governor's Purchased Care Review Board	1		
Racing Board	7	1	
Savings and Loan Associations, Commissioner of	1		
State Employees' Retirement System	2	1	
<u>Education</u>			
Education, State Board of	5		
Higher Education, Board of	20	1	
Community College Board	3	2	
Independent Higher Education Loan Authority	1		
Scholarship Commission, State Universities Civil Service System, State	1		
Trustees, Board of (U of I)	2		
	1		
TOTAL	604	78	22

*Denotes rules promulgated jointly. See Section Two, page 76 for discussion.

TABLE FIVE
COMPARISON OF GENERAL RULEMAKING BY AGENCY
1978 THROUGH 1984

Agency	General Rulemaking					
	1978	1979	1980	1981	1982	1983
<u>Code Departments</u>						
Administrative Services**	1		7	7	1	
Aging	5	1	6	6	4	4
Agriculture	14	17	14	16	24	18
Alcoholism and Substance Abuse**						2
Central Management Services	2	2	60	1	3	16
Children and Family Services					26	10
Commerce and Community Affairs					8	4
Conservation	76	92	75	108	33	34
Corrections	82	23	38	24	15	66
Employment Security**						3
Energy and Natural Resources					2	1
Financial Institutions	1	10	8	3		3
Human Rights*				5	4	1
Insurance	15	14	17	13	13	25
Labor	5	6	4	7	8	5
Law Enforcement	2		1		1	2
Local Government Affairs	1		3			
Mental Health and Developmental Disabilities						
Minics and Minerals	8	13	4	8	3	5
Nuclear Safety	4		5	5	6	4
Personnel**			1	2	3	4
Public Aid	10	9	9	9	9	
Public Health	46	56	47	66	40	67
Registration and Education	42	43	55	44	92	53
Rehabilitation Services	11	11	22	15	16	26
Revenue			3	1	6	28
Transportation	11	16	24	45	14	9
Veterans' Affairs	13	13	13	17	5	10
	1	2	2	2		1

TABLE FIVE
COMPARISON OF GENERAL RULEMAKING BY AGENCY
FOR 1978 THROUGH 1984
(Continued)

Agency	General Rulemaking						
	1978	1979	1980	1981	1982	1983	1984
<u>Constitutional Offices</u>							
Attorney General	3	1	2		3	2	3
Auditor General	7	5	2	1	4	1	3
Comptroller	1	2	4	3	4	4	3
Secretary of State	15	21	12	26	14	31	20
Treasurer	1	1					1
<u>Miscellaneous Agencies</u>							
Abandoned Mined Lands Reclamation Council				1			2
Banks & Trust Companies, Commissioner of	2	5	3		6		
Capital Development Board	2	1	3		3		
Civil Service Commission				2			2
Commerce Commission				10	21	18	43
Criminal Justice Information Authority	1	2				4	
Dangerous Drugs Advisory Council				2			
Dangerous Drugs Commission				2	3	3	2
Education Facilities Authority			1		2	1	1
Educational Labor Relations Bd. Elections							4
Emergency Services and Disaster Agency	6	1	8	3	7	3	4
Environmental Protection Agency	7	12		2	9	7	
Fair Employment Practices Commission	2	3	10	16	18	20	21
Farm Development Authority							
Fire Marshal, State	1	2	1	1	1	1	2
Governor's Purchased Care Review Bd.	1	6	2	1	7	3	5
Guardianship and Advocacy Commission			2	1	2	2	1

TABLE FIVE
COMPARISON OF GENERAL RULEMAKING BY AGENCY
FOR 1978 THROUGH 1984
(Continued)

Agency	General Rulemaking						
	1978	1979	1980	1981	1982	1983	1984
Health Facilities Authority	5	2		1			2
Health Facilities Planning Board		1					3
Health Finance Authority		1	5	1	1		2
Housing Development Authority			1		1	2	2
Human Rights Commission*				1	3	1	2
Industrial Commission	4	1	3	2	1	2	
Investment, State Board of		3	1				4
Labor Relations Board, Local*							4
Labor Relations Board, State*				2		1	4
Law Enforcement Commission						1	
Law Enforcement Merit Board	2	2	1		1		
Liquor Control Commission						1	
Local Governmental Law Enforcement							1
Officer's Training Board						4	
Local Government Records Commission		1					
Lottery Control Board		2			1		
Mandates Board of Appeals, State							
Medical Center Commission		1					
Natural Resources, Institute of		1	1	2			
Nature Preserves Commission						1	
Pollution Control Board	18	11	18	13	18	23	21
Prisoner Review Board					1		
Racing Board	10	14	19	10	22	9	7
Savings and Loan Associations							
Commissioner of	3	4	1	7	1	1	1
State Employees' Retirement							
System	2	3	5	3	4	1	2
State Fair Agency		4					
Statewide Health Coordinating							
Council	4	1		2			

TABLE FIVE
COMPARISON OF GENERAL RULEMAKING BY AGENCY
FOR 1978 THROUGH 1984
(Continued)

Agency	General Rulemaking					
	1978	1979	1980	1981	1982	1983
<u>Education</u>						
Education, State Board of Higher Education, Board of Regents, Board of	3	4 3	9 2	8 5 2	3	7
Community College Board Higher Education Travel Control Board	17	11	19		1	2
Independent Higher Education Loan Authority		1	1	1	2	
Scholarship Commission, State Trustees, Board of (East St. Louis Community College)				11	4	2
Trustees, Board of (U of I)					2	1
University Civil Service Merit Bd.				1		1
Universities Retirement System, State				3		1
Universities Civil Service System, State						1
<u>Legislative Agencies</u>						
Aggregate Mining Problems Study Commission						2
Cities & Village Municipal Problems Commission				1		
County Problems Commission				1		
Energy Resource Commission				1		
Joint Committee on Administrative Rules				1	1	
Joint Condominium Study Commission	3	5	1		1	
Legislative Information System	1		2	1		1
State Council on Nutrition					2	

TABLE FIVE
COMPARISON OF GENERAL RULEMAKING BY AGENCY
FOR 1978 THROUGH 1984
(Continued)

Agency	General Rulemaking				
	1978	1979	1980	1981	1982
Select Joint Committee on Regulatory Agency Reform				2	
Travel Control Board	1	1		1	
Commission to Visit & Examine State Institutions				1	
Mississippi River Parkway Commission				1	
TOTAL	472	467	556	563	510
					585
					604

*Denotes rules promulgated jointly. See Section Two, page 76 for discussion.

**Denotes change in agency title. See Section Two, page 76 for discussion.

TABLE SIX
COMPARISON OF EMERGENCY AND PEREMPTORY RULEMAKING
BY AGENCY 1980 THROUGH 1984

Agency	Emergency					Peremptory				
	1980	1981	1982	1983	1984	1980	1981	1982	1983	1984
Code Departments										
Aging	1	1	1			1				
Agriculture	2	1			1					
Alcoholism and Substance Abuse**					1					
Central Management Services			2	3	13					1
Children & Family Services	2		4	1			1			
Conservation	13	13	3	4	1					
Corrections	4	2	15				1	3	1	
Employment Security**					3					
Financial Institutions	2	2								
Human Rights	1									
Insurance	4	2	2							
Labor	1	3		3	3		1			
Mental Health & Developmental Disabilities		1	2	1						
Mines and Minerals	1	1	3	1						
Nuclear Safety			1		2					
Personnel**	4	5	3							
Public Aid	4	2	4							
Public Health	11	1	15	2	6	5	22	6	3	9
Registration and Education	2	2	5	5	2			1		1
Rehabilitation Services			1		6					
Revenue	9	2	3		1					
Transportation	2				1					

TABLE SIX
COMPARISON OF EMERGENCY AND PEREMPTORY RULEMAKING
BY AGENCY 1980 THROUGH 1984
(Continued)

Agency	Emergency					Peremptory		
	1980	1981	1982	1983	1984	1980	1981	1982
<u>Miscellaneous Agencies</u>								
Bank and Trust Companies, Commissioner of	3		1					
Capital Development Board	2							
Commerce Commission	5		2	5	3			1
Dangerous Drugs Commission	1							
Educational Labor Relations Board								
Elections, State Board of	4	4	2	1	4			
Emergency Services and Disaster Agency					2			
Environmental Protection Agency	3	2	1		2			
Farm Development Authority			1	1	1			
Fire Marshal, State	1		2	1	2			
Governor's Purchased Care Review Board	1							
Housing Development Authority				1	1			
Industrial Commission	1	1	2		2			
Labor Relations Board, Local*					4			
Labor Relations Board, State*					4			
Law Enforcement Merit Board	1				2			
Local Governmental Law Enforcement Officers' Training Bd.				1				
Mandates Board of Appeals, State			1					
Nature Preserves Commission	1							
Pollution Control Board	2	3	1	1	3			1
Racing Board		2	2	2	1		3	7
Savings and Loan Associations, Commissioner of	1	1						
State Employees' Retirement System	3	1	1		1			
Statewide Health Coordinating Council								1
							10	11

TABLE SIX
COMPARISON OF EMERGENCY AND PEREMPTORY RULEMAKING
BY AGENCY 1980 THROUGH 1984
(Continued)

Agency	Emergency				Peremptory					
	1980	1981	1982	1983	1984	1980	1981	1982	1983	1984
<u>Education</u>										
Education, State Board of	3	1		3		7			1	
Higher Education, Board of		1			1					
Regents, Board of		1								
Community College Board				1	2					
Independent Higher Education										
Loan Authority				1						
Scholarship Commission, State		1	2	1						
Trustees, Board of (U of I)		1		1						
<u>Legislative Agencies</u>										
Legislative Information System	1		1	1						
TOTALS	<u>97</u>	<u>60</u>	<u>84</u>	<u>49</u>	<u>78</u>	<u>17</u>	<u>27</u>	<u>21</u>	<u>16</u>	<u>22</u>

*Denotes rules promulgated jointly. See Section Two, page 76 for discussion.

**Denotes change in agency title. See Section Two, page 76 for discussion.

TABLE SEVEN
STATEMENTS OF OBJECTION
ISSUED IN 1984 TO AGENCY RULES

<u>Agency</u>	<u>Total Statements of Objection</u>	<u>Objections to General Rulemaking</u>	<u>Objections to Emergency Rulemaking</u>	<u>Objections to Peremptory Rulemaking</u>	<u>Objections to Existing Rulemaking</u>
<u>Code Departments</u>					
Aging	1	1			
Agriculture	1	1			
Alcoholism and Substance Abuse	15	15			
Children and Family Services	20	18		1	1
Commerce and Community Affairs	1	1			
Conservation	4	4			
Corrections	30	30			
Employment Security	18	18			
Human Rights*	5	5			
Insurance	3	3			
Labor	14	13	1		
Mental Health and Developmental Disabilities	5	5			
Mines and Minerals	1	1			
Nuclear Safety	2	1	1		
Public Aid	33	27		3	3
Public Health	27	21	5	1	
Registration and Education	18	14	4		
Rehabilitation Services	3	3			
Revenue	2	2			
<u>Constitutional Offices</u>					
Secretary of State	8	7	1		
<u>Miscellaneous Agencies</u>					
Abandoned Mined Lands					
Reclamation Council	1	1			
Capital Development Board	5	5			

TABLE SEVEN
STATEMENTS OF OBJECTION
ISSUED IN 1984 TO AGENCY RULES
(Continued)

<u>Agency</u>	<u>Total Statements of Objection</u>	<u>Objections to General Rulemaking</u>	<u>Objections to Emergency Rulemaking</u>	<u>Objections to Peremptory Rulemaking</u>	<u>Objections to Existing Rulemaking</u>
Commerce Commission	8	7	1		
Educational Labor Relations Board	4	4			
Elections	1	1			
Environmental Protection Agency	5	4	1		
Farm Development Authority	2	1	1		
Fire Marshal, State	5	5			
Guardianship and Advocacy Commission	4	3			1
Human Rights Commission*	5	5			
Local Governmental Law Enforcement Officers Training Board	1	1			
Law Enforcement Merit Board	2	1	1		
Pollution Control Board	6	5	1		
Racing Board	7	2	1		
State Employees' Retirement System	6	6	1		4
<u>Education</u>					
Education, State Board of	16	14			
Higher Education, Board of	6	6			
Community College Board	1	1			2
Trustees, Board of (University of Illinois)	4	4			
TOTAL	300	266	18	5	11

*Five Statements of Objection issued to the jointly promulgated rules of the Department of Human Rights and the Human Rights Commission.

TABLE EIGHT
AGENCY RESPONSE TO JCAR OBJECTIONS 1984
(To general, emergency, peremptory rulemaking and existing rules)

<u>Agency</u>	<u>Refuse</u>	<u>Modify or Amend (Failure to Remedy)</u>	<u>Withdraw or Repeal</u>
<u>Code Departments</u>			
Aging	1		
Agriculture	1		
Alcoholism and Substance Abuse	3	12 (1)	
Children and Family Services	5	3 (2)	12
Commerce and Community Affairs		1	
Conservation	4		
Corrections	30		
Employment Security	2	11	5
Human Rights*			5
Insurance		1	2
Labor	8	6 (2)	
Mental Health and Develop- mental Disabilities		5	
Mines and Minerals			1
Nuclear Safety	2	1	
Public Aid	20	9 (3)	4
Public Health	14	10	3
Registration and Education	13	2 (2)	3
Rehabilitation Services	3		
Revenue	2		
<u>Constitutional Offices</u>			
Secretary of State	7	1	
<u>Miscellaneous Agencies</u>			
Abandoned Mined Lands Reclamation Council		1	
Capital Development Board	4	1	
Commerce Commission	5	3	
Educational Labor Relations Board	4		
Elections		1	
Environmental Protection Agency	4	1	
Farm Development Authority	2		
Fire Marshal, State	5		
Guardianship and Advocacy Commission	1	3 (3)	

TABLE EIGHT
AGENCY RESPONSE TO JCAR OBJECTIONS 1984
(To general, emergency, peremptory rulemaking and existing rules)

<u>Agency</u>	<u>Refuse</u>	<u>Modify or Amend (Failure to Remedy)</u>	<u>Withdraw or Repeal</u>
Human Rights Commission*			5
Local Governmental Law Enforcement Officers Training Board		1	
Law Enforcement Merit Bd.	1		1
Pollution Control Board	4	2	
Racing Board	2	5	
State Employees Retirement system		4	2
<u>Education</u>			
Education, State Board of	8	8 (3)	
Higher Education, Board of	1	4	1
Community College Board Trustees, Board of (University of Illinois)			1
			4
TOTAL	156	96(16)	49

NOTE: The total agency response is greater than the total objections because the Department of Nuclear Safety responded in more than one way to an objection.

*Joint response of the Department of Human Rights and the Human Rights Commission to a jointly promulgated rule.

TABLE NINE
COMPARISON OF AGENCY RESPONSES
TO OBJECTIONS FROM 1978 THROUGH 1984

	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>	<u>1984</u>
NUMBER OF OBJECTIONS ISSUED	72	65	55	62	99	156*	300*
AGENCY RESPONSES							
Withdrawn or Repealed	14 (19.4%)	2 (3.0%)	5 (9.1%)	10 (16.1%)	10 (10.0%)	9 (5.7%)	49 (16.3%)
Modified or Amended	34 (47.2%)	30 (46.2%)	24 (43.6%)	31 (50.0%)	62 (62.6%)	72 (46.1%)	96 (32.0%)
Refusal	24 (33.3%)	33 (50.8%)	26 (47.3%)	21 (33.9%)	27 (27.2%)	79 (50.6%)	156 (52.0%)
Pending	0	0	0	0	0	0	0

*Note: Number of objections issued is less than the total agency responses as the agency may respond to one objection in more than one way.

SECTION THREE

SPECIFIC OBJECTIONS AND RECOMMENDATIONS ISSUED

Section Three summarizes the Statements of Objection and Recommendation issued in 1984 to agency rulemaking. The information in this section is summarized in Section Two, Tables 7 and 8.

Objections and recommendations to general proposed rules are issued during the program described in the rules of the Joint Committee entitled "Review of Proposed Rulemaking" (1 Ill. Adm. Code 220). This activity is authorized by Section 7.06 of the Illinois Administrative Procedure Act (IAPA) (Ill. Rev. Stat. 1983, ch. 127, pars. 1001-1021). (See especially Sections 7.06(a) through 7.06(h).)

Objections and recommendations are issued to emergency rules under the emergency rules review program (1 Ill. Adm. Code 230) authorized by Section 5.02 of the IAPA. Those issued under the peremptory rules review program (1 Ill. Adm. Code 240) are authorized by Section 5.03 of the IAPA. Finally, objections and recommendations issued to existing rules under the five year review program (1 Ill. Adm. Code 250) are authorized by Section 7.08 of the IAPA and under the complaint review program (1 Ill. Adm. Code 260), authorized by Sections 7.04 and 7.07 of the IAPA.

The complete text of proposed, adopted, emergency, and peremptory rules, the Statements of Objection and Recommendation issued by the Joint Committee, and the responses of the agencies appear in the Illinois Register, which is published by the Administrative Code Unit of the Office of the Secretary of State. The citations which appear in the summaries that follow refer to the issue and page of the Illinois Register where the specific discussion is published.

1984 OBJECTIONS AND RECOMMENDATIONS
TO PROPOSED RULES

ABANDONED MINED LANDS RECLAMATION COUNCIL

Abandoned Mined Lands Reclamation (62 Ill. Adm. Code 2501)

Proposal Originally Published in Illinois Register, July 6, 1984 (8 Ill. Reg. 11214).

This Joint Committee action from the meeting of October 18, 1984 was published in the Illinois Register, November 2, 1984 (8 Ill. Reg. 21698).

Objection: The Joint Committee objected to Section 2501.25 of the rules of the Abandoned Mined Lands Reclamation Council entitled "Abandoned Mined Lands Reclamation" (62 Ill. Adm. Code 2501.25) because the rules fail to include standards to be used for conducting appraisals of privately-owned lands reclaimed by the Council, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Recommendation: The Joint Committee suggested to the Abandoned Mined Lands Reclamation Council that it initiate the process to amend the State reclamation plan because the policies contained in the Council's rules entitled "Abandoned Mined Lands Reclamation" are not contained in the State reclamation plan, as required by Federal law.

Agency Response to Objection: Modification, February 1, 1985 (9 Ill. Reg. 1476).

Agency Response to Recommendation: Agreement (received January 22, 1985).

Published as Adopted: May 10, 1985 (9 Ill. Reg. 6641).

AGING, DEPARTMENT ON

Elder Abuse Program (89 Ill. Adm. Code 250)

Proposal Originally Published in Illinois Register, August 3, 1984 (8 Ill. Reg. 13601).

This Joint Committee action from the meeting of November 8, 1984 was published in the Illinois Register, November 30, 1984 (8 Ill. Reg. 23236).

Objection: The Joint Committee objected to Section 250.310(a)(9) of the Department on Aging's proposed rules implementing the Elder Abuse Program because the Department does not have the statutory authority under Article II, Section 3 of PA 83-1432, "An Act in relation to victims of negligence and abuse," and Section 4 of PA 83-1259, "An Act creating the Elder Abuse Demonstration Program," to require that paraprofessionals working with the

elderly, such as homemakers and home health aides, report suspected elder abuse or exploitation.

Recommendation 1: The Joint Committee suggested to the Department on Aging that it promulgate rules which set forth the criteria used to select which applicants will be awarded grants to conduct Elder Abuse Demonstration Projects.

Recommendation 2: The Joint Committee suggested that the Department seek legislation to grant it the authority to require paraprofessionals to report suspected elder abuse and exploitation.

Agency Response to Objection: Refusal to Modify or Withdraw, December 7, 1984 (8 Ill. Reg. 23756).

Agency Response to Recommendation: Refusal (received November 23, 1984).

Published as Adopted: December 7, 1984 (8 Ill. Reg. 23684).

AGRICULTURE, DEPARTMENT OF

Farmland Preservation Act (8 Ill. Adm. Code 700 Appendix G, renumbered Appendix E).

Proposal Originally Published in Illinois Register, February 10, 1984 (8 Ill. Reg. 1845)

This Joint Committee action from the meeting of July 18, 1984 was published in the Illinois Register, July 18, 1984 (8 Ill. Reg. 13926).

Objection: The Joint Committee objected to Section 700. Appendix G "Impact of Agency Activities" because the Department of Commerce and Community Affairs, in its policy statement on the rules of the Department of Agriculture implementing the Farmland Preservation Act, plans to delete Section 700. Appendix G after the commencement of the second notice period, in violation of Section 5.01(b)(3) of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 24, 1984 (8 Ill. Reg. 15545).

Published as Adopted: August 24, 1984 (8 Ill. Reg. 15279).

Illinois Pesticide Act of 1979 (8 Ill. Adm. Code 250.20, 250.90, 250.120, 250.160 and 250.170)

Proposal Originally Published in Illinois Register, June 1, 1984 (8 Ill. Reg. 7726).

This Joint Committee action from the meeting of August 23, 1984 was published in the Illinois Register, September 7, 1984 (8 Ill. Reg. 16487).

Recommendation: The Joint Committee suggested that the Department seek legislation to clarify the Pesticide Act of 1979 as amended with regard to licensure and certification of commercial, public, and commercial not-for-hire applicators.

Agency Response: Agreement (received December 3, 1984).

Published as Adopted: September 7, 1984 (8 Ill. Reg. 16407).

Motor Fuel Standards Act (8 Ill. Adm. Code 850)

Proposal Originally Published in Illinois Register, January 27, 1984 (8 Ill. Reg. 1009).

This Joint Committee action from the meeting of April 10, 1984 was published in the Illinois Register, April 20, 1984 (8 Ill. Reg. 5384).

Recommendation: The Committee suggested that the Department of Agriculture seek the necessary legislation which would grant the Department the authority to impose a \$100 administrative fee for each complaint to cover administrative costs.

Agency Response: Agreement (received April 16, 1984). P.A. 83-1496, effective December 21, 1984.

Published as Adopted: May 4, 1984 (8 Ill. Reg. 5993).

ALCOHOLISM AND SUBSTANCE ABUSE, DEPARTMENT OF

Fiscal and Programmatic Requirements (77 Ill. Adm. Code 2030)

Proposal Originally Published in Illinois Register, July 13, 1984 (8 Ill. Reg. 11897).

This Joint Committee action from the meeting of November 8, 1984 was published in the Illinois Register, November 30, 1984 (8 Ill. Reg. 23243).

Objection 1: The Joint Committee objected to Section 2030.1010(a) of the rules of the Department of Alcoholism and Substance Abuse because contrary to the provisions of Section 4.02 of the Illinois Administrative Procedure Act, the Department has not set forth the standards by which it determines whether to suspend or terminate an award for cause.

Objection 2: The Joint Committee objected to Section 2030.1010(b) and (c) of the Department of Alcoholism and Substance Abuse's rules because contrary to the provisions of Section 4.02 of the Illinois Administrative Procedure Act, the Department has not clearly and precisely set forth the standards by which the Department will suspend or terminate an award for failure to submit any report required by Part 2030, or when it will withhold further payments or prohibit the Provider from incurring additional obligations of award funds during a period of suspension.

Objection 3: The Joint Committee objected to Sections 2030.20(a), 2030.1210(a), 2030.1235(e)(4) and 2030.1245 of the rules of the Department of Alcoholism and Substance Abuse because these sections are vague in that they fail to fully identify which Federal and State rules, laws, and regulations the Department requires Providers to follow as a condition of Departmental funding.

Objection 4: The Joint Committee objected to Section 2030.620(a) of the rules of Department of Alcoholism and Substance Abuse because contrary to the provisions of Section 4.02 of the Illinois Administrative Procedure Act, the Department has not clearly and precisely set forth the standards by which the Department will grant requests for extensions of the Revenue/Expense reporting requirements.

Objection 5: The Joint Committee objected to Sections 2030.210(b)(1) and 2030.440(c) of the rules of the Department of Alcoholism and Substance Abuse because contrary to the provisions of Section 4.02 of the Illinois Administrative Procedure Act, the Department has not clearly and precisely set forth the standards by which the Department will determine whether allowable costs and in-kind contributions are "necessary and reasonable for proper and efficient" execution of an award.

Objection 6: The Joint Committee objected to Section 2030.730 of the rules of the Department of Alcoholism and Substance Abuse because, contrary to the provisions of Section 4.02 of the Illinois Administrative Procedure Act, the Department has not clearly and precisely set forth the standards by which the Department will decide when to reduce compensation payable under the award document for under-utilization of substance abuse treatment services.

Objection 7: The Joint Committee objected to Section 2030.30(a)(1) of the rules of the Department of Alcoholism and Substance Abuse because the standards for what constitutes "an opportunity to be heard and to offer evidence in support of its position" are not stated as precisely and clearly as practicable as is required by Section 4.02 of the Illinois Administrative Procedure Act.

Objection 8: The Joint Committee objected to Section 2030.40 of the rules of the Department of Alcoholism and Substance Abuse because, contrary to the provisions of Section 4.02 of the Illinois Administrative Procedure Act, the Department failed to provide clear and precise standards for granting exceptions to the rules.

Objection 9: The Joint Committee objected to Section 2030.630(a)(4) of the rules of the Department of Alcoholism and Substance Abuse because, contrary to the requirements of Section 4.02 of the Illinois Administrative Procedure Act, the rule does not precisely and clearly set forth the standards by which the Department will grant approval for the retention of lapsed funds by a provider.

Objection 10: The Joint Committee objected to Section 2030.1130(b) of the rules of the Department of Alcoholism and Substance Abuse because, contrary to the provisions of Section 4.02 of the Illinois Administrative Procedure Act, the Department has not set forth the standards by which it grants prior

written approval for fund recipients to use real property that is no longer needed for original award purposes for other projects.

Objection 11: The Joint Committee objected to Section 2030.1270(a) of the rules of the Department of Alcoholism and Substance Abuse because, contrary to the provisions of Section 4.02 of the Illinois Administrative Procedure Act, the Department has not set forth the standards by which it grants prior written approval for Providers to enter into subawards for specific activities, responsibilities and obligations that the Provider owes to the Department.

Objection 12: The Joint Committee objected to Section 2030.960(a) of the rules of the Department of Alcoholism and Substance Abuse because, contrary to the provisions of Section 4.02 of the Illinois Administrative Procedure Act, the Department has not set forth the standards by which it grants prior written approval for budget revisions.

Objection 13: The Joint Committee objected to Section 2030.940 of the rules of the Department of Alcoholism and Substance Abuse because, contrary to the provisions of Section 4.02 of the Illinois Administrative Procedure Act, the Department has not precisely and clearly set forth the standards by which it grants prior written approval for programmatic changes.

Objection 14: The Joint Committee objected to Section 2030.50 of the rules of the Department of Alcoholism and Substance Abuse because, contrary to the requirements of Section 4.02 of the IAPA, the rule contains no standards for determining what types of "special conditions" the Department will impose upon fund recipients.

Objection 15: The Joint Committee objected to Section 2030.220(d)(12) of the rules of the Department of Alcoholism and Substance Abuse because the section is vague as the Department has refused to cite the location in the Illinois Administrative Code of the travel regulations of the Department of Central Management Services which it relies upon for reimbursement of travel and lodging expenses.

Agency Response: Refusal to Modify or Withdraw (4, 8 and 14), December 14, 1984 (8 Ill. Reg. 24342); Modification (1-4, 5, 6, 7, and 9-13), December 14, 1984 (8 Ill. Reg. 24333); Notice of Failure to Remedy (5), April 12, 1985 (9 Ill. Reg. 4940).

Published as Adopted: December 14, 1984 (8 Ill. Reg. 24016).

CAPITAL DEVELOPMENT BOARD

Capital Development Board Rules and Regulations (Rule 101-Rule 1302) (Codified as "Procurement Practices," 44 Ill. Adm. Code 910; "Prequalification and Suspension of Contractors," 44 Ill. Adm. Code 950; "Prequalification and Suspension of Architects and Engineers," 44 Ill. Adm. Code 980; "Selection of Architects/Engineers (A/E)," 44 Ill. Adm. Code 1000; "Hearing Procedures," 71 Ill. Adm. Code 100; "Project Procedures," 71 Ill. Adm. Code 20; and "Standards for Award of Grants Elementary and Secondary Schools Capital Assistance Program," 71 Ill. Adm. Code 40).

Proposal Originally Published in Illinois Register, June 29, 1984 (8 Ill. Reg. 10215).

This Joint Committee action from the meeting of September 20, 1984 was published in the Illinois Register, October 12, 1984 (8 Ill. Reg. 20099).

Objection 1: The Joint Committee objected to Rules 404, 513, 526, 712, 801(i), 802(d), 803(e), 1001(a)(2), 1201(b), 1203(b)(5), 1509(b)(2), 1510 and 1518 of the Capital Development Board's "Rules and Regulations" because the proposed rules fail to include the standards used by the Board in making discretionary determinations, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 2: The Joint Committee objected to Rules 511(b), 519(d), 527(f)(9), 1203(b)(4)(B), 1203(b)(9)(G), 1508 and 1515(a) of the Capital Development Board's "Rules and Regulations" because the rules do not state the standards as clearly and precisely as practicable so as to inform those persons affected by the rules, as required by Section 4.02 of the Illinois Administrative Procedure Act.

Objection 3: The Joint Committee objected to Rule 803(d), Rules 1507(a), (b), (c), (d), and (g), Rules 1509(a) and (b)(1), 1513(a) and Rule 1521(c) of the "Rules and Regulations" of the Capital Development Board because the proposed rules fail to include the standards used by the Executive Director and the Hearing Officer in making discretionary determinations.

Objection 4: The Joint Committee objected to Rules 504(b), 511(b) 514(b), 803(b) and 1203(b)(9)(E)(5) of the "Rules and Regulations" of the Capital Development Board because the proposed rulemaking fails to include the standards used by the Board in making discretionary determinations.

Objection 5: The Joint Committee objected to Rule 1519(c) of the Capital Development Board's "Rules and Regulations" because the rule fails to include all of the information required to be included in the record of hearing proceedings pursuant to Section 11 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw (1-4), October 12, 1984 (8 Ill. Reg. 20366); Modification (5), October 12, 1984 (8 Ill. Reg. 20368).

Published as Adopted: October 12, 1984 (9 Ill. Reg. 20324, 20366, 20368).

CHILDREN AND FAMILY SERVICES, DEPARTMENT OF

Administration and Funding of Community-Based Services to Youth (89 Ill. Adm. Code 334)

Proposal Originally Published in Illinois Register, March 9, 1984 (8 Ill. Reg. 2745).

This Joint Committee action from the meeting of June 12, 1984 was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10096).

Objection: The Joint Committee objected to proposed Section 334.9 because that Section would allow the Department of Children and Family Services to refuse to renew recognition of service areas, local boards, and local service systems for reasons other than substantial failure to comply with regulations and minimum service requirements in violation of Section 17-2 of the Act creating the Department of Children and Family Services (Ill. Rev. Stat. 1983, ch. 23, par. 5017a-2).

Agency Response: Refusal to Modify or Withdraw, July 27, 1984 (8 Ill. Reg. 13446).

Published as Adopted: July 27, 1984 (8 Ill. Reg. 13147).

Facilities and Programs Exempt From Licensure (89 Ill. Adm. Code 377.4)

Proposal Originally Published in Illinois Register, January 27, 1984 (8 Ill. Reg. 1014).

This Joint Committee action from the meeting of May 15, 1984 was published in the Illinois Register, June 1, 1984 (8 Ill. Reg. 7662).

Objection: The Joint Committee objected to the Department of Children and Family Services' proposed amendment to Section 377.4 of its rules because this proposed amendment is inconsistent with Section 7.1 of The Child Care Act of 1969 regarding the procedures to be followed when releasing a child from a part-day child care facility (Ill. Rev. Stat. 1983, ch. 23, par. 2217.1).

Agency Response: None. Rule withdrawn by operation of law due to the failure of the agency to respond to the objection within the statutory time period. Withdrawal published September 7, 1984 (8 Ill. Reg. 16544).

Financial Responsibility of Parents or Guardians of the Estates of Children (89 Ill. Adm. Code 352)

Proposal Originally Published in Illinois Register, August 10, 1984 (8 Ill. Reg. 14137).

This Joint Committee action from the meeting of November 8, 1984 was published in the Illinois Register, November 30, 1984 (8 Ill. Reg. 23263).

Objection: The Joint Committee objected to Section 352.4 of the Department of Children and Family Services' rules on Financial Responsibility of Parents or Guardians of the Estates of Children, because, contrary to "An Act creating the Department of Children and Family Services" (Supplement to Ill. Rev. Stat. 1983, ch. 23, par. 5009.1), the rule absolves a noncustodial parent who has been ordered to pay child support from liability to pay charges for services, and thus fails to consider the income and ability to pay of each parent in determining liability to be charged.

Agency Response: Modification, February 15, 1985 (9 Ill. Reg. 2346).

Published as Adopted: February 15, 1985 (9 Ill. Reg. 2247).

Grants-in-Aid (89 Ill. Adm. Code 360.1 - 360.7, Repeal 360.8)

Proposal Originally Published in Illinois Register, January 6, 1984 (8 Ill. Reg. 21).

This Joint Committee action from the meeting of May 15, 1984 was published in the Illinois Register, June 1, 1984 (8 Ill. Reg. 7664 and 7678).

Objection 1: The Joint Committee objected to Sections 360.7(e)(2)(E) and 360.7(g)(5) of the Department of Children and Family Services' rules concerning Grants-in-Aid because these sections do not include standards for determining when non-compliance has been substantial, or when appropriate corrective action has or has not been taken, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 2: The Joint Committee objected to Section 360.7(j) of the Department of Children and Family Services' rules concerning Grants-in-Aid because the Department has failed to provide specific standards for determining the time and length of funding of non-service projects, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 3: The Joint Committee objected to Sections 360.7(h)(2) and (3) of the Department of Children and Family Services' rules concerning Grants-in-Aid because the Department has failed to provide standards for determining when revisions or adjustments to awarded grants are necessary for the successful conduct of the project, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 4: The Joint Committee objected to Section 360.7(n)(12) of the Department of Children and Family Services' rules concerning Grants-in-Aid because the Department has failed to provide standards to determine what is "reasonable notice and opportunity for hearing," in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 5: The Joint Committee objected to Section 360.7(n)(13) of the Department of Children and Family Services' rules concerning Grants-in-Aid because the Department has not provided standards for determining what is a reasonable time after hearing to submit a decision, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 6: The Joint Committee objected to Section 360.7(g)(7) of the Department of Children and Family Services' rules concerning Grants-in-Aid because the Department has not provided standards to indicate what the Department considers "sufficient information" to allow for review of an application and its merits, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 7: The Joint Committee objected to Sections 360.7(n)(8), (13), (15), (18), and (19) of the Department of Children and Family Services' rules concerning Grants-in-Aid because the Department lacks statutory authority to control the Illinois Juvenile Justice Commission and its appeals procedures.

Objection 8: The Joint Committee objected to Sections 360.7(d), (e), (f), (g), (h), and (i) of the Department of Children and Family Services' rules

because there is no statutory authority for the Illinois Juvenile Justice Commission to delegate its authority to the Department, or the Chairman of that Commission, to review and approve or disapprove juvenile justice and delinquency prevention grant applications.

Objection 9: The Joint Committee objected to Sections 360.7(e)(2)(D) and (E) of the Department of Children and Family Services' rules concerning Grants-in-Aid because the rules violate Section 6.02 of the Illinois Administrative Procedure Act.

Objection 10: The Joint Committee objected to Section 360.3(c) of the Department of Children and Family Services' rules concerning Grants-in-Aid because it fails to provide standards to explain when projects will be considered for grant funding continuation, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 11: The Joint Committee objected to Section 360.4(a)(2) and (3) of the Department of Children and Family Services' rules concerning Grants-in-Aid because the rule fails to provide standards for determining the need for grants or services.

Recommendation: The Joint Committee suggested that the Department develop legislation that will clarify the roles of the Illinois Juvenile Justice Commission and the Department.

Agency Response to Objections: Modification (10, 11), September 21, 1984 (8 Ill. Reg. 17337); Notice of Failure To Remedy (10, 11), November 2, 1984 (8 Ill. Reg. 21777). Withdrawal (1-9), September 21, 1984 (8 Ill. Reg. 17338).

Agency Response to Recommendation: Agreement, September 21, 1984 (8 Ill. Reg. 17338).

Published as Adopted: September 21, 1984 (8 Ill. Reg. 17263).

Licensing Standards for Day Care Homes (89 Ill. Adm. Code 406.6, 406.8, 406.9, 406.12 and 406.24)

Proposal Originally Published in Illinois Register, January 27, 1984 (8 Ill. Reg. 1050).

This Joint Committee action from the meeting of May 15, 1984 was published in the Illinois Register, June 1, 1984 (8 Ill. Reg. 7681).

Objection 1: The Joint Committee objected to the Department of Children and Family Services' proposed amendment to Section 406.12 of its rules because this proposed amendment is inconsistent with Section 7.1 of The Child Care Act of 1969 regarding the procedures to be followed when releasing a child from a day care home (Ill. Rev. Stat. 1983, ch. 23, par. 2217.1).

Objection 2: The Joint Committee objected to the Department of Children and Family Services' proposed amendment to the Licensing Standards for Day Care Homes rules (89 Ill. Adm. Code 406.6, 406.8, 406.9, 406.12, and 406.24) because the Department failed to provide an initial and final regulatory

flexibility analysis in violation of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Failure to Respond. Rule withdrawn by operation of law due to the failure of the agency to respond to the objections within the statutory time period. Withdrawal published September 7, 1984 (8 Ill. Reg. 16545).

Purchase of Service (89 Ill. Adm. Code 357)

Proposal Originally Published in Illinois Register, January 6, 1984 (8 Ill. Reg. 44)

This Joint Committee action from the meeting of May 15, 1984 was published in the Illinois Register, June 1, 1984 (8 Ill. Reg. 7685).

Objection 1: The Joint Committee objected to the proposed amendments to Section 357.3(c)(2) of the Department of Children and Family Services' rules governing Purchase of Services because the Department has failed to include the standards utilized in negotiating and renewing subsequent service contracts, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 2: The Joint Committee objected to Section 357.11(e) of the Department of Children and Family Services' rules governing Purchase of Services because the Department has failed to include standards that determine when noncompliance with fiscal reporting would not result in withholding of rate increases, and the Department has failed to explain the standards used in determining what action will be taken when a provider has not complied with fiscal reporting requirements, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, July 13, 1984 (8 Ill. Reg. 12697).

Published as Adopted: July 13, 1984 (8 Ill. Reg. 12127).

Services Delivered by the Department (89 Ill. Adm. Code 302)

Proposal Originally Published in Illinois Register, January 20, 1984 (8 Ill. Reg. 941)

This Joint Committee action from the meeting of May 15, 1984 was published in the Illinois Register, June 1, 1984 (8 Ill. Reg. 7691).

Recommendation 1: The Joint Committee suggested to the Department of Children and Family Services that it promulgate its policies concerning the circumstances under which it will make one-time adoption assistance payments for services related to legally completing adoptions, and the amount of such payments, in accordance with Section 5 of the Illinois Administrative Procedure Act.

Recommendation 2: The Joint Committee suggested to the Department of Children and Family Services that it promulgate the remainder of its policies regarding adoption assistance payments which constitute rules under Section 3.09 of the Illinois Administrative Procedure Act, in accordance with the rulemaking procedures stipulated in Section 5 of the Act.

Agency Response: Failure to Respond.

Published as Adopted: July 13, 1984 (8 Ill. Reg. 12143).

COMMERCE AND COMMUNITY AFFAIRS, DEPARTMENT OF

Employment and Training Assistance for Dislocated Workers (56 Ill. Adm. Code 2620)

Uniform Fiscal and Administration Standards for the Job Training Partnership Act (56 Ill. Adm. Code 2630)

Proposal Originally Published in Illinois Register, August 19, 1983 (7 Ill. Reg. 9749) and (7 Ill. Reg. 9765).

This Joint Committee action from the meeting of January 18, 1984 was published in the Illinois Register, February 17, 1984 (8 Ill. Reg. 2217).

Recommendation: The Joint Committee recommended that the Department of Commerce and Community Affairs promulgate as rules the remainder of its policies necessary to implement the Job Training Partnership Act programs and recommends that the Department contact the Joint Committee to arrange for a preliminary review of these rules once they are filed for public comment.

Agency Response: Failure to Respond.

Published as Adopted: February 17, 1984 (8 Ill. Reg. 2137 and 3616).

Service Delivery System and State Responsibilities (56 Ill. Adm. Code 2600)

Proposal Originally Published in Illinois Register, February 3, 1984 (8 Ill. Reg. 1715).

This Joint Committee action from the meeting of July 18, 1984 was published in the Illinois Register, August 3, 1984 (8 Ill. Reg. 13928 and 13931).

Objection: The Joint Committee objected to Section 2600.40(e) of the Department of Commerce and Community Affairs' rules, "Certification of Private Industry Councils," because the Department's definition of "experience in administering job training programs" conflicts with Section 102 of the Job Training Partnership Act.

Recommendation 1: The Joint Committee suggested that the Department of Commerce and Community Affairs promulgate its policies for the establishment

and enforcement of the schedule of dates imposed by the Department upon Private Industry Councils and Chief Elected Officials for the development of the job training program in accordance with Section 5 of the Illinois Administrative Procedure Act.

Recommendation 2: The Joint Committee suggested to the Department of Commerce and Community Affairs that it promulgate rules governing the conduct of hearings to contest a Governor's reorganization plan for a Service Delivery Area, in accordance with the requirements of Section 5 of the Illinois Administrative Procedure Act.

Agency Response to Objection: Modification, September 28, 1984 (8 Ill. Reg. 16526), with corrections at September 21, 1984, (8 Ill. Reg. 17596).

Agency Response to Recommendations: Agreement (received August 30, 1984).

Published as Adopted: September 28, 1984 (8 Ill. Reg. 18073).

State Administration of the Federal Low-Income Home Energy Assistance Block Grant Program (47 Ill. Adm. Code 100.70)

Proposal Originally Published in Illinois Register, April 20, 1984 (8 Ill. Reg. 5053).

This Joint Committee action from the meeting of July 18, 1984 was published in the Illinois Register, August 3, 1984 (8 Ill. Reg. 13934).

Recommendation: The Joint Committee suggested that the Department of Commerce and Community Affairs initiate rulemaking amending Section 100.70 of the Department's rules concerning state administration of the federal Low-Income Home Energy Assistance Block Grant Program to replace the incorporation by reference of Office of Management and Budget Circulars A-87, A-102, A-110, and A-122 with the substance of these Circulars in order to comply with Section 6.02 of the Illinois Administrative Procedure Act.

Agency Response: Agreement (received November 30, 1984).

Published as Adopted: August 31, 1984 (8 Ill. Reg. 16004).

COMMERCE COMMISSION, ILLINOIS

Pole Attachment Agreements Between CATV Companies and Public Utilities (83 Ill. Adm. Code 315)

Proposal Originally Published in Illinois Register, February 24, 1984 (8 Ill. Reg. 2328).

This Joint Committee action from the meeting of December 11, 1984 was published in the Illinois Register, December 21, 1984 (8 Ill. Reg. 24751).

Objection 1: The Joint Committee objected to Section 315.20(d)(4) of the rules of the Illinois Commerce Commission entitled "Pole Attachment Rates, Terms and Conditions Applicable to Cable Television Companies and Electric and Telephone Public Utilities" (83 Ill. Adm. Code 315) because the rules fail to provide standards for the exercise of agency discretion used to determine whether proposed pole attachment agreements have properly allocated costs between utilities and cable television companies, as required by Section 4.02 of the Illinois Administrative Procedure Act.

Objection 2: The Joint Committee objected to Section 315.30(b) of the rules of the Illinois Commerce Commission entitled "Pole Attachment Rates, Terms and Conditions Applicable to Cable Television Companies and Electric and Telephone Public Utilities" (83 Ill. Adm. Code 315) because the rules fail to provide standards for the exercise of agency discretion used to determine whether proposed pole attachment agreements have properly allocated costs between utilities and cable television companies, as required by Section 4.02 of the Illinois Administrative Procedure Act.

Objection 3: The Joint Committee objected to Section 315.20(e) of the rules of the Illinois Commerce Commission entitled "Pole Attachment Rates, Terms and Conditions Applicable to Cable Television Companies and Electric and Telephone Public Utilities" (83 Ill. Adm. Code 315) because the rule is vague and violates Section 4.02 of the Illinois Administrative Procedure Act.

Agency Response: Modification, February 22, 1985 (9 Ill. Reg. 2550).

Published as Adopted: February 22, 1985 (9 Ill. Reg. 2471).

Rules for Construction of Electric Power and Communication Lines (General Order 160) (83 Ill. Adm. Code 305)

Proposal Originally Published in Illinois Register, May 11, 1984 (8 Ill. Reg. 6564).

This Joint Committee action from the meeting of August 23, 1984 was published in the Illinois Register, September 7, 1984 (8 Ill. Reg. 16490).

Objection 1: The Joint Committee objected to Section 305.40 of the rules of the Illinois Commerce Commission entitled "Construction of Electric Power and Communication Lines" because the rules fail to provide standards for the exercise of agency discretion used to determine whether waivers or modifications of safety rules can be granted, as required by Section 4.02 of the Illinois Administrative Procedure Act.

Objection 2: The Joint Committee objected to Section 305.70 of the rules of the Illinois Commerce Commission entitled "Construction of Electric Power and Communication Lines" because the rules fail to provide standards for the exercise of agency discretion used to determine what constitutes an "emergency" or a "hardship," nor standards for the determination of the location, design, construction, operation, and maintenance of power and communication circuits, as required by Section 4.02 of the Illinois Administrative Procedure Act.

Objection 3: The Joint Committee objected to Section 305.80 of the rules of the Illinois Commerce Commission entitled "Construction of Electric Power and Communication Lines" because the terminology used in this rule is vague and lacks the clarity necessary for an understanding of the rule.

Objection 4: The Joint Committee objected to Section 305.80, Section 305.90(a) and (b), Section 305.100, and Section 305.120(a) of the rules of the Illinois Commerce Commission entitled "Construction of Electric Power and Communication Lines" for inclusion in the rulemaking of provisions which the agency contends are not rules as defined by Section 3.09 of the Illinois Administrative Procedure Act and for failure of the rules to provide standards for the exercise of agency discretion as required by Section 4.02 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, October 12, 1984 (9 Ill. Reg. 20219).

Published as Adopted: October 12, 1984 (8 Ill. Reg. 19943).

COMMUNITY COLLEGE BOARD, ILLINOIS

Administration of the Illinois Public Community College Act (23 Ill. Adm. Code 1501)

Proposal Originally Published in Illinois Register, December 30, 1983 (7 Ill. Reg. 17202).

This Joint Committee action from the meeting of May 15, 1984 was published in the Illinois Register, June 1, 1984 (8 Ill. Reg. 7694).

Objection : The Joint Committee objected to Section 1501.603(d) of the Board's rules because it incorporates by reference the guidelines of another state agency in violation of Section 6.02 of the Illinois Administrative Procedure Act.

Recommendation 1: The Joint Committee suggested that the Illinois Community College Board seek legislation which would permit it to approve locally funded projects for the purchase, construction, remodeling, or rehabilitation of physical facilities of community colleges or extension centers.

Recommendation 2: The Joint Committee suggested that the Board promulgate rules to specify the information which the Board requires of colleges when they apply for approval of new units of instruction and to include policies contained in the Board's Management Information Systems Manual.

Agency Response to Objection: Withdrawal, July 27, 1984 (8 Ill. Reg. 13447).

Agency Response to Recommendations: Agreement (received July 12, 1984).

Published as Adopted: October 12, 1984 (8 Ill. Reg. 19383).

CONSERVATION, DEPARTMENT OF

Certification and Transfer of Local Share of Historic Preservation Fund Allocation to Local Governments (17 Ill. Adm. Code 340)

Proposal Originally Published in Illinois Register, August 17, 1984 (8 Ill. Reg. 15023).

This Joint Committee action from the meeting of November 8, 1984 was published in the Illinois Register, November 30, 1984 (8 Ill. Reg. 23267).

Objection: The Joint Committee objected to the Department of Conservation's rules on Certification of and Transfer of Local Share of Historic Preservation Fund Allocation to Local Governments because the Department lacks rulemaking authority for this program within its enabling legislation (Ill. Rev. Stat. 1983, ch. 127, pars. 63a - 63b2.2).

Recommendation 1: The Joint Committee recommended to the Department of Conservation that the Department seek legislation in the Spring session of the General Assembly to explicitly authorize the Department to promulgate rules for the Certification of and Transfer of Local Share of Historic Preservation Fund Allocation to Local Governments.

Recommendation 2: The Joint Committee suggested to the Department of Conservation that it promulgate rules to include all of its policies regarding the Certification of Local Governments and the Transfer of the Local Share of the Historic Preservation Fund to such governments.

Agency Response to Objection: Refusal to Modify or Withdraw, January 18, 1985 (9 Ill. Reg. 841).

Agency Response to Recommendations: Failure to Respond.

Published as Adopted: January 18, 1985 (9 Ill. Reg. 691).

Commercial Fishing in Lake Michigan (17 Ill. Adm. Code 850.50)

Proposal Originally Published in Illinois Register, January 20, 1984 (8 Ill. Reg. 762).

This Joint Committee action from the meeting of April 10, 1984 was published in the Illinois Register, April 20, 1984 (8 Ill. Reg. 5386).

Objection: The Joint Committee objected to the Department of Conservation's proposed amendment to 17 Ill. Adm. Code 850.50 for failure to comply with the regulatory flexibility requirements of Section 5.01(a) and (b) of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, May 25, 1984 (8 Ill. Reg. 7307).

Published as Adopted: May 25, 1984 (8 Ill. Reg. 7220).

Forest Management Plan (17 Ill. Adm. Code 1537)

Proposal Originally Published in Illinois Register, February 24, 1984 (8 Ill. Reg. 2361).

This Joint Committee action from the meeting of May 15, 1984 was published in the Illinois Register, June 1, 1984 (8 Ill. Reg. 7700).

Objection: The Joint Committee objected to the Department of Conservation's proposed rules at 17 Ill. Adm. Code 1537 for failure to comply with the regulatory flexibility requirements of Sections 5.01(a) and (b) of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, June 15, 1984 (8 Ill. Reg. 8780).

Published as Adopted: June 15, 1984 (8 Ill. Reg. 8732).

Sale of Tree and Shrub Seedlings (17 Ill. Adm. Code 1540)

Proposal Originally Published in Illinois Register, September 28, 1984 (8 Ill. Reg. 17949).

This Joint Committee action from the meeting of December 11, 1984 was published in the Illinois Register, December 21, 1984 (8 Ill. Reg. 24757).

Recommendation: The Joint Committee suggested that the Department of Conservation seek legislation to amend "An Act in relation to State forests" in order to clarify and encompass the programs that the Department wishes to develop based on the authority of "An Act in relation to State forests."

Agency Response: Failure to Respond.

Published as Adopted: January 18, 1985 (9 Ill. Reg. 695).

Timber Harvest Fees (17 Ill. Adm. Code 1535)

Proposal Originally Published in Illinois Register, November 18, 1983 (7 Ill. Reg. 15222).

This Joint Committee action from the meeting of February 23, 1984 was published in the Illinois Register, March 9, 1984 (8 Ill. Reg. 3055).

Objection: The Joint Committee objected to Section 1535.40 of the Department of Conservation's Timber Harvest Fee's rules because the section is vague and does not clearly state who may be a party to arbitration and because the Department lacks the statutory authority to adopt a timber valuation arbitration program.

Recommendation: The Joint Committee suggested that the Department of Conservation seek legislation granting the specific statutory authority to establish an arbitration program.

Agency Response to Objection: Refusal to Modify or Withdraw, March 23, 1984 (8 Ill. Reg. 3828).

Agency Response to Recommendation: Agreement (received March 16, 1984).

Published as Adopted: April 6, 1984 (8 Ill. Reg. 4492).

CORRECTIONS, DEPARTMENT OF

Repeal - Adult Division Administrative Regulations - Administrative Orders No. 1 through No. 5

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 11765).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10098).

Objection: The Joint Committee objected to the Department's proposed repeal of its Adult Division Administrative Regulations, Administrative Orders No. 1 through No. 5 because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14677).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14344).

Repeal - Adult Division Administrative Regulations #001 - #1204

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 11771).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10100).

Objection: The Joint Committee objected to the Department's proposed repeal of its Adult Division Administrative Regulations, AR 001 - AR 1204 because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14678).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14346).

Advocacy Services (20 Ill. Adm. Code 440)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12712).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10102).

Objection: The Joint Committee objected to the Department's proposed 20 Ill. Adm. Code 440 because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14679).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14382).

Assignment Committees (20 Ill. Adm. Code 420)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12153).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10104).

Objection: The Joint Committee objected to the Department's proposed 20 Ill. Adm. Code 420 because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14680).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14385).

Authorized Absences (20 Ill. Adm. Code 530)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12156).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10106).

Objection: The Joint Committee objected to the Department's proposed 20 Ill. Adm. Code 530 because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14681).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14389).

Chaplaincy (20 Ill. Adm. Code 425)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12166).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10102).

Objection: The Joint Committee objected to the Department's proposed 20 Ill. Adm. Code 425 because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14682).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14398)

Classification and Transfers (20 Ill. Adm. Code 503)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12168).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10110).

Objection: The Joint Committee objects to the Department's proposed 20 Ill. Adm. Code 503 because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14683).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14401).

Commissaries (20 Ill. Adm. Code 210)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12175).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10112).

Objection: The Joint Committee objected to the Department's proposed 20 Ill. Adm. Code 210 because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14684).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14417).

Committed Persons' Business Ventures (20 Ill. Adm. Code 445)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12206).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10114).

Objection: The Joint Committee objected to the Department's proposed 20 Ill. Adm. Code 445 because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14677).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14420).

Committed Persons' Organizations (20 Ill. Adm. Code 450)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12209).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10114).

Objection: The Joint Committee objected to the Department's proposed 20 Ill. Adm. Code 450 because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14685).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14420).

Discipline and Grievances (20 Ill. Adm. Code 504)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12394).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10118).

Objection: The Joint Committee objected to the Department's proposed Part 504, "Discipline and Grievances" (20 Ill. Adm. Code 504), because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14687).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14427).

Funds for Committed Persons (20 Ill. Adm. Code 205)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12177).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10120).

Objection: The Joint Committee objected to the Department's proposed 20 Ill. Adm. Code 205 because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14688).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14492).

Health Care (20 Ill. Adm. Code 415)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12461).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10122).

Objection: The Joint Committee objected to the Department's proposed rules entitled "Health Care" (20 Ill. Adm. Code 415) because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14689).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14496).

Internal Investigations (20 Ill. Adm. Code 112)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12466).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10125).

Objection: The Joint Committee objected to the Department's proposed rules entitled "Internal Investigations" (20 Ill. Adm. Code 112) because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14690).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14502).

Repeal - Juvenile Division Administrative Regulations

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12469).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10127).

Objection: The Joint Committee objected to the Department's proposed repeal of its Juvenile Division Administrative Regulations because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14691).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14506).

Legal Programs for Committed Persons (20 Ill. Adm. Code 410)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12180).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10129).

Objection: The Joint Committee objected to the Department's proposed 20 Ill. Adm. Code 410 because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14692).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14532).

Library Services and Legal Materials (20 Ill. Adm. Code 430)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12718).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10131).

Objection: The Joint Committee objected to the Department's proposed rules entitled "Library Services and Legal Materials" (20 Ill. Adm. Code 430) because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14693).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14536).

Out of State Employment (20 Ill. Adm. Code 540)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12648).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984.

Objection: The Joint Committee objected to the Department's proposed 20 Ill. Adm. Code 540 because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14694).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14540).

Personal Property (20 Ill. Adm. Code 535)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12650).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10135).

Objection: The Joint Committee objected to the Department's proposed 20 Ill. Adm. Code 535 because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal of Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14695).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14543).

Personnel Standards (20 Ill. Adm. Code 305)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12657).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10137).

Objection: The Joint Committee objected to the Department's proposed 20 Ill. Adm. Code 305 because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14696).

Published as Adopted: August 10, 1985 (8 Ill. Reg. 14551).

Repeal - Procedures Manual for Community Correctional Centers

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12211).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10139).

Objection: The Joint Committee objected to the Department's proposed repeal of its Procedures Manual for Community Correctional Centers because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14697).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14555).

Public Relations (20 Ill. Adm. Code 103)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12660).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10141).

Objection: The Joint Committee objected to the Department's proposed 20 Ill. Adm. Code 103 because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14698).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14568).

Records of Committed Persons (20 Ill. Adm. Code 107)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12183).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10143).

Objection: The Joint Committee objected to the Department's proposed 20 Ill. Adm. Code 107 because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal of Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14699).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14572).

Research and Evaluation (20 Ill. Adm. Code 106)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12663).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10143).

Objection: The Joint Committee objected to the Department's proposed 20 Ill. Adm. Code 106 because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14700).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14594).

Rights and Privileges (20 Ill. Adm. Code 525)

Proposal Originally Published in Illinois Register, September 30, 1983, (7 Ill. Reg. 12666).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10148).

Objection: The Joint Committee objected to the Department's proposed rules entitled "Rights and Privileges" (20 Ill. Adm. Code 525) because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14701).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14598).

Safety, Maintenance and Sanitation (20 Ill. Adm. Code 502)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12686).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10151).

Objection: The Joint Committee objected to the Department's proposed rules entitled "Safety, Maintenance and Sanitation" (20 Ill. Adm. Code 502) because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14702).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14618).

School District #428 (20 Ill. Adm. Code 405)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12692).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10154).

Objection: The Joint Committee objected to the Department's proposed 20 Ill. Adm. Code 405 because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14703).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14624).

Security (20 Ill. Adm. Code 501)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12695).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10156).

Objection: The Joint Committee objected to the Department's proposed 20 Ill. Adm. Code 501 because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14704).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14628).

Volunteer Services (20 Ill. Adm. Code 435)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12714).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10158).

Objection: The Joint Committee objected to the Department's proposed rules entitled "Volunteer Services" (20 Ill. Adm. Code 435) because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14705).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14644).

Work Release Programs (20 Ill. Adm. Code 455)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12721).

This Joint Committee action from the June 12, 1984 meeting was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10161).

Objection: The Joint Committee objected to the Department's proposed rules entitled "Work Release Programs" (20 Ill. Adm. Code 455) because the notice of proposed rulemaking does not meet the requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, August 10, 1984 (8 Ill. Reg. 14706).

Published as Adopted: August 10, 1984 (8 Ill. Reg. 14649).

EDUCATION, STATE BOARD OF

Certification (23 Ill. Adm. Code 25)

Proposal Originally Published in Illinois Register, March 16, 1984 (8 Ill. Reg. 3171).

This Joint Committee action from the meeting of June 12, 1984 was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10164).

Objection 1: The Joint Committee objected to Section 25.322 because the Board has exceeded the authority granted in Section 21-7.1 of the School Code by imposing additional requirements for receipt of an administrative certificate with a general supervisory endorsement.

Objection 2: The Joint Committee objected to Section 25.333, because the Board has exceeded the authority granted in Section 21-7.1 of the School Code by imposing additional requirements for receipt of an administrative certificate with a general administrative endorsement.

Objection 3: The Joint Committee objected to Section 25.355 because the Board has exceeded the authority granted in Section 21-7.1 of the School Code by imposing additional requirements for receipt of an administrative certificate with a superintendent endorsement.

Objection 4: The Joint Committee objected to Section 25.344 because the Board has exceeded the authority granted in Section 21-7.1 of the School Code by imposing additional requirements for receipt of an administrative certificate with a chief school business official endorsement.

Objection 5: The Joint Committee objected to Sections 25.322, 25.333, 25.344, and 25.355 because the standards determining the amount or type of clinical experience the Board requires of candidates for administrative endorsements

are not stated as precisely and clearly as practicable, as required by Section 4.02 of the Illinois Administrative Procedure Act.

Objection 6: The Joint Committee objected to the Board's proposed amendments to Section 25.120 because the rule does not contain standards required by Section 4.02 of the Illinois Administrative Procedure Act for the Board's review of an institution's compliance with the requirements added by this proposed rulemaking.

Recommendation: The Joint Committee suggested that the Board seek legislation which would clarify the statutory requirements for receipt of the Chief Business Official endorsement.

Agency Response to Objections: Refusal to Modify or Withdraw, January 25, 1985 (9 Ill. Reg. 1170).

Agency Response to Recommendation: Refusal (received August 14, 1984).

Published as Adopted: January 25, 1985 (9 Ill. Reg. 1046).

Fellowship, Traineeship and Scholarship Program (23 Ill. Adm. Code 54)

Proposal Originally Published in Illinois Register, November 18, 1983 (7 Ill. Reg. 15228).

This Joint Committee action from the meeting of February 23, 1984 was published in the Illinois Register, March 9, 1984 (8 Ill. Reg. 3060).

Objection 1: The Joint Committee objected to Sections 54.140(d) and 54.240(d) because they do not contain standards required by Section 4.02 of the Illinois Administrative Procedure Act for the exercise of the State Board of Education's discretionary power to require repayment of grant funds.

Objection 2: The Joint Committee objected to proposed Sections 54.130(b) and 54.200 because they appear in distinguishing type but do not "repeat or paraphrase" statutory language as required by 1 Ill. Adm. Code 100.380.

Objection 3: The Joint Committee objected to proposed Section 54.130 because it establishes a criterion for the issuance of fellowship grants which is not authorized by Section 14A-8 of the School Code.

Objection 4: The Joint Committee objected to Section 54.130 because it establishes a criterion for the issuance of fellowship grants which is not authorized by Section 14A-8 of the School Code or by P.A. 83-252 which amended that section.

Objection 5: The Joint Committee objected to Sections 54.130 and 54.230 of this proposed rulemaking because it contains an invalid incorporation by reference of the standards of another state agency, in violation of Section 6.02 of the Illinois Administrative Procedure Act.

Objection 6: The Joint Committee objected to Sections 54.130 and 54.230 of this proposed rulemaking because the standards used to make awards of

fellowship and traineeship grants are not stated as "precisely and clearly as practicable" as required by Section 4.02 of the Illinois Administrative Procedure Act.

Agency Response: Modification (1-6) May 11, 1984 (8 Ill. Reg. 6843). Notice of Failure to Remedy (1,6), August 3, 1984 (8 Ill. Reg. 13997).

Published as Adopted: May 11, 1984 (8 Ill. Reg. 6682).

Rules and Regulations to Govern the Administration and Operation of Special Education (Rule 10.20) (Special Education (23 Ill. Adm. Code 226))

Proposal Originally Published in Illinois Register, May 27, 1983 (7 Ill. Reg. 6625).

This Joint Committee action from the meeting of January 18, 1984 was published in the Illinois Register, February 17, 1984 (8 Ill. Reg. 2219).

Objection 1: The Joint Committee objected to proposed Rule 10.20 because it limits the right to present "additional evidence" at the state level review in conflict with Section 14-8.02(g) of the School Code.

Objection 2: The Joint Committee objected to proposed Rule 10.20 because it lacks standards to govern the exercise of the state level review officer's discretion to grant an extension of time before a state level review hearing as required by Section 4.02 of the Illinois Administrative Procedure Act.

Agency Response: Modification, June 1, 1984 (8 Ill. Reg. 7718). Notice of Failure to Remedy (2), August 3, 1984 (8 Ill. Reg. 13999).

Published as Adopted: June 1, 1984 (8 Ill. Reg. 7617).

EDUCATIONAL LABOR RELATIONS BOARD, ILLINOIS

Impasse Resolution (80 Ill. Adm. Code 1130)

Proposal Originally Published in Illinois Register, June 15, 1984 (8 Ill. Reg. 8418).

This Joint Committee action from the meeting of October 18, 1984 was published in the Illinois Register, November 2, 1984 (8 Ill. Reg. 21702).

Objection 1: The Joint Committee objected to Sections 1130.20 and 1130.30 of the Illinois Educational Labor Relations Board's rules entitled "Collective Bargaining and Impasse Resolution" (80 Ill. Adm. Code 1130) because by allowing mediation to be invoked by newly certified bargaining units other than in the 45 day period prior to the beginning of the forthcoming school year, the rule violates Section 12 of the Illinois Educational Labor Relations Act.

Objection 2: The Joint Committee objected to Sections 1130.20 and 1130.30 of the Illinois Educational Labor Relations Board's rules entitled "Collective Bargaining and Impasse Resolution" (80 Ill. Adm. Code 1130) because by allowing mediation to be invoked for bargaining units containing no professional instructional personnel, other than in the 45 day period prior to the beginning of the forthcoming school year, the rule violates Section 12 of the Illinois Educational Labor Relations Act.

Objection 3: The Joint Committee objected to Section 1130.30 of the rules of the Illinois Educational Labor Relations Board entitled "Collective Bargaining and Impasse Resolution" because by allowing parties, through joint requests, to invoke mediation at any time, the rule violates Section 12 of the Illinois Educational Labor Relations Act.

Recommendation: The Joint Committee recommended that if the Illinois Educational Labor Relations Board wishes to provide mediation for newly certified bargaining units and bargaining units containing no professional instructional personnel outside of the time periods prescribed by Section 12 of the Illinois Educational Labor Relations Act, the Board should seek legislation to modify the application of Section 12 of the Act to such bargaining units.

Agency Response to Objections: Refusal to Modify or Withdraw, November 16, 1984 (8 Ill. Reg. 22538).

Agency Response to Recommendation: Failure to Respond.

Published as Adopted: November 16, 1984 (8 Ill. Reg. 22538).

Representation Proceedings (80 Ill. Adm. Code 1110)

Proposal Originally Published in Illinois Register, May 25, 1984 (8 Ill. Reg. 7152).

This Joint Committee action from the meeting of August 23, 1984 was published in the Illinois Register, September 7, 1984 (8 Ill. Reg. 16497).

Objection: The Joint Committee objected to Sections 1110.100(c) and (i) of the Board's rules entitled "Representation Proceedings," because the rules do not contain the standards required by Section 4.02 of the Illinois Administrative Procedure Act for the Board's determination of whether there is reasonable cause to believe a question of representation exists and whether a question of representation does in fact exist.

Agency Response: Refusal to Modify or Withdraw, December 14, 1984 (8 Ill. Reg. 24345).

Published as Adopted: September 7, 1984 (8 Ill. Reg. 16300).

Unfair Labor Practice Proceedings (80 Ill. Adm. Code 1120)

Proposal Originally Published in Illinois Register, June 1, 1984 (8 Ill. Reg. 7528).

This Joint Committee action from the meeting of September 20, 1984 was published in the Illinois Register, October 12, 1984 (8 Ill. Reg. 20114).

Recommendation: The Joint Committee suggested that the Board draft legislation which would amend the Illinois Educational Labor Relations Act to specify that employees may file unfair labor practice proceedings.

Agency Response: Failure to Respond. P.A. 84-0123, effective July 30, 1985.

Published as Adopted: October 12, 1984 (8 Ill. Reg. 19413).

ELECTIONS, STATE BOARD OF

Practice and Procedures (26 Ill. Adm. Code 125)

Proposal Originally Published in Illinois Register, June 15, 1984 (8 Ill. Reg. 8420).

This Joint Committee action from the meeting of November 8, 1984 was published in the Illinois Register, November 30, 1984 (8 Ill. Reg. 23273).

Objection: The Joint Committee objected to Sections 125.420(e)(2)(B) and 125.530(c)(2) of the rules of the Illinois State Board of Elections entitled "Practice and Procedures" because the rules fail to provide standards used to determine whether civil penalties will be waived and whether the waiver will be absolute or time specific, as required by Section 4.02 of the Illinois Administrative Procedure Act.

Agency Response: Modification, December 28, 1984 (8 Ill. Reg. 25133).

Published as Adopted: March 29, 1985 (9 Ill. Reg. 4050).

EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS, STATE

Administration and Operation of the State Employees' Retirement System (80 Ill. Adm. Code 1540)

Proposal Originally Published in Illinois Register, November 14, 1983 (7 Ill. Reg. 14887).

This Joint Committee action from the meeting of February 23, 1984 was published in the Illinois Register, March 9, 1984 (8 Ill. Reg. 3071).

Objection: The Joint Committee objected to Sections 1540.270(c)(3), 1540.270(c)(4), 1540.270(d)(4)(A), 1540.270(d)(5)(E), 1540.270(d)(9) and 1540.270(e)(4) of the State Employees' Retirement System's "Rules and Regulations to Govern the Administration and Operation of the State Employees' Retirement System of Illinois" because the rulemaking fails to include the standards used by the System in making discretionary

determinations, in violation of Section 4.02 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par. 1004.02).

Agency Response: Modification to Meet Objections to Sections 1540.270(c)(3)(A), 1540.270(c)(4), 1540.270(d)(4)(A), and 1540.270(d)(9); Withdrawal of Sections 1540.270(d)(5)(E) and 1540.270(e)(4), March 3, 1984 (8 Ill. Reg. 4271).

Published as Adopted: March 3, 1984 (8 Ill. Reg. 4144).

EMPLOYMENT SECURITY, DEPARTMENT OF

Claims, Adjudication, Appeals and Hearings (Proposed as "Appeals and Hearings," 56 Ill. Adm. Code 1500) (56 Ill. Adm. Code 2720) (Formerly 56 Ill. Adm. Code 1500)

Proposal Originally Published in Illinois Register, January 27, 1984 (8 Ill. Reg. 1264).

This Joint Committee action from the meeting of November 8, 1984 was published in the Illinois Register, November 30, 1984 (8 Ill. Reg. 23275).

Objection 1: The Joint Committee objected to the rules of the Department of Employment Security entitled "Claims, Adjudication, Appeals and Hearings" because the Department substantially changed the rule after publication in the Illinois Register, not in response to public comment, thus circumventing the public notice and comment provisions of Section 5.01 of the Illinois Administrative Procedure Act.

Objection 2: The Joint Committee objected to the rules of the Department of Employment Security entitled "Claims, Adjudication, Appeals and Hearings" because the Department failed to comply with the regulatory flexibility requirements of Section 5.01 of the Illinois Administrative Procedure Act.

Objection 3: The Joint Committee objected to Sections 2720.100 and 2720.125 of the Department of Employment Security's proposed rules entitled "Claims, Adjudication, Appeals and Hearings" because the rules do not include the standards used by the Department to determine whether a claimant has shown that he is "able to work, available for work and actively seeking work," in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 4: The Joint Committee objected to Section 2720.30 of the rules of the Department of Employment Security entitled "Claims, Adjudication, Appeals and Hearings" because the rule allows the Department to correct administrative errors contained in any finding, determination or decision without allowing the affected parties any recourse of appeal.

Objection 5: The Joint Committee objected to Section 2720.30 of these rules because the rule does not include the standards to be used by the Department in determining whether to correct a technical error, the outcome

of which may prove detrimental to an affected party, as required by Section 4.02 of the Illinois Administrative Procedure Act.

Objection 6: The Joint Committee objected to Section 2720.15 of the rules of the Department of Employment Security entitled "Claims, Adjudication, Appeals and Hearings" because the rule fails to define a "direct personal interest" that would preclude participation in an investigation or proceeding by an Adjudicator, Referee, or Board of Review member.

Objection 7: The Joint Committee objected to Section 2720.125 of the rules of the Department of Employment Security entitled "Claims, Adjudication, Appeals and Hearings" because the rules fail to provide standards for the exercise of Department discretion used to determine whether a claimant must register in person at the Illinois State Job Service Office, as required by Section 4.02 of the Illinois Administrative Procedure Act.

Objection 8: The Joint Committee objected to Section 2720.245(e) of the rules of the Department of Employment Security entitled "Claims, Adjudication, Appeals and Hearings" because the Department lacks the statutory authority to promulgate rules which allow the Director to refuse to allow an individual to represent a party in any appeal proceeding.

Objection 9: The Joint Committee objected to Section 2720.245(e) of the Department's rules because the rules fail to include the standards used by the Director in determining whether to refuse to allow an individual to represent a party in any appeal proceeding, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 10: The Joint Committee objected to Sections 2720.105 and 2720.120 of the Department of Employment Security's rules entitled "Claims, Adjudication, Appeals and Hearings" because the rules fail to include the standards used by the Department in determining whether a claimant has shown "good cause" or "reasons outside the claimant's control" so as to allow antedation of initial claims and claim certifications which were filed late, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 11: The Joint Committee objected to Section 2720.115 of the rules of the Department of Employment Security entitled "Claims, Adjudication, Appeals and Hearings" because the rule fails to include the standards used by the Department to determine whether the claimant "promptly and fully" cooperated with Department investigations, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 12: The Joint Committee objected to Section 2720.240 of the Department of Employment Security's rules entitled "Claims, Adjudication, Appeals and Hearings" because the rule fails to include the standards used by Referees to determine whether "good cause" for granting a continuance was shown by the claimant, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 13: The Joint Committee objected to Section 2720.255(c) of the Department of Employment Security's rules on "Claims, Adjudication, Appeals and Hearings" because the Department has failed to provide the standards by

which it determines "good cause," as required by Section 4.02 of the Illinois Administrative Procedure Act.

Objection 14: The Joint Committee objected to Section 2720.255(c)(1) of the Department of Employment Security's rules entitled "Claims, Adjudication, Appeals and Hearings," because the Department failed to provide the standards it uses to determine whether or not the reason a party could not attend a hearing was caused by circumstances which "could not have been reasonably foreseen and avoided," in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 15: The Joint Committee objected to Section 2720.255(c)(2) of the Department's rules because the rules does not include the standards used by the Referee to determine whether a request for a rehearing will be granted or denied, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 16: The Joint Committee objected to Sections 2720.315(b) and (c) of the Department of Employment Security's rules on "Claims, Adjudication, Appeals and Hearings," because the Department failed to provide the standards it uses to determine whether an explanation of why additional evidence was not introduced at the previous hearing shows "good cause." The failure to provide standards for this determination violates Section 4.02 of the Illinois Administrative Procedure Act.

Objection 17: The Joint Committee objected to Section 2720.315(b)(2) of the Department of Employment Security's rules on "Claims, Adjudication, Appeals and Hearings," because the Department failed to provide standards for determining what constitutes "good cause" in denying a continuance, thereby violating Section 4.02 of the Illinois Administrative Procedure Act.

Objection 18: The Joint Committee objected to Section 2720.315(c) of the Department of Employment Security's rules on "Claims, Adjudication, Appeals and Hearings" because the Department has failed to provide the standards by which it will grant a "reasonable extension of time" for filing written arguments or how it will determine if the request was "for good cause shown." Such lack of standards violates Section 4.02 of the Illinois Administrative Procedure Act.

Recommendation: The Joint Committee suggested to the Department of Employment Security that it promulgate as rules those provisions in its publication, "You and the Facts About Unemployment Insurance," which define "available for work."

Agency Response to Objections: Withdrawal (2, 4, 5, 8, and 9); Modification (1, 6, 7, 10, 11, 13, 14, 15, 16, 17, and 18); Refusal to Modify or Withdraw (3, 12), December 28, 1984 (8 Ill. Reg. 25134).

Agency Response to Recommendation: Failure to Respond.

Published as Adopted: December 28, 1984 (8 Ill. Reg. 24957).

ENVIRONMENTAL PROTECTION AGENCY, ILLINOIS

Combined Sewer Overflow Exception Criteria and First Flush Determination (35 Ill. Adm. Code 375)

Proposal Originally Published in Illinois Register, March 23, 1984 (8 Ill. Reg. 3487).

This Joint Committee action from the meeting of August 23, 1984 was published in the Illinois Register, September 7, 1984 (8 Ill. Reg. 16500).

Objection: The Joint Committee objected to Section 375.404(d) of the rules of the Environmental Protection Agency entitled "Combined Sewer Overflow Exception Criteria and First Flush Determination" because Section 375.404(d) fails to provide standards for the exercise of Agency discretion in determining how many and which overflow points must be monitored by the discharger, as required by Section 4.02 of the Illinois Administrative Procedure Act.

Agency Response: Modification, October 12, 1984 (8 Ill. Reg. 19704).

Published as Adopted: October 12, 1984 (8 Ill. Reg. 19436).

Procedures for Determining and Protecting Confidential Information (35 Ill. Adm. Code 161)

Proposal Originally Published in Illinois Register, April 6, 1984 (8 Ill. Reg. 4400).

This Joint Committee action from the meeting June 12, 1984 was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10178).

Objection: The Joint Committee objected to Part 161 of the Rules of the Illinois Environmental Protection Agency because the Agency lacks statutory authority to promulgate rules governing the procedures for claiming, determining, and protecting articles claimed to be trade secrets, and because this Part is unnecessary and by the Agency's own admission, duplicates rules of the Pollution Control Board.

Agency Response: Refusal to Modify or Withdraw, June 29, 1984 (8 Ill. Reg. 10093).

Published as Adopted: June 29, 1984 (8 Ill. Reg. 9994).

Policy for Granting Permission to Operate During Periods of Excess Emissions (35 Ill. Adm. Code 260)

Proposal Originally Published in Illinois Register, March 16, 1984 (8 Ill. Reg. 3189).

This Joint Committee action from the meeting of September 20, 1984 was published in the Illinois Register, October 12, 1984 (8 Ill. Reg. 20119).

Objection: The Joint Committee objected to Sections 260.205 and 260.206 of the Rules of the Illinois Environmental Protection Agency because the Agency lacks the statutory authority to promulgate permit requirements beyond those authorized by the Pollution Control Board and because these sections duplicate rules of the Pollution Control Board.

Agency Response: Refusal to Modify or Withdraw, December 28, 1984 (8 Ill. Reg. 25143).

Published as Adopted: January 4, 1985 (9 Ill. Reg. 43).

Rules for Self Monitoring and Reporting by Sources of Air Pollution (35 Ill. Adm. Code 285)

Proposal Originally Published in Illinois Register, April 20, 1984 (8 Ill. Reg. 5071).

This Joint Committee action from the meeting of September 20, 1984 was published in the Illinois Register, October 12, 1984 (8 Ill. Reg. 20116).

Objection: The Joint Committee objected to the rule of the Environmental Protection Agency entitled "Rules for Self-Monitoring and Reporting by Sources of Air Pollution" because the Agency lacks the statutory authority to promulgate rules prescribing the requirements for the monitoring and collection of data of emissions of air contaminant discharges.

Agency Response: Refusal to Modify or Withdraw, December 28, 1984 (8 Ill. Reg. 25144).

Published as Adopted: January 4, 1985 (9 Ill. Reg. 51).

FARM DEVELOPMENT AUTHORITY, ILLINOIS

Rules of the Illinois Farm Development Authority (8 Ill. Adm. Code 1400.10, 1400.100, 1400.130, 1400.140)

Proposal Originally Published in Illinois Register, February 24, 1984 (8 Ill. Reg. 2379).

This Joint Committee action from the meeting of May 15, 1984 was published in the Illinois Register, June 1, 1984 (8 Ill. Reg. 7703).

Objection: The Joint Committee objected to the Illinois Farm Development Authority's proposed amendments to Sections 1400.10 through 1400.140 because the Authority failed to include an initial regulatory flexibility analysis, as required by Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, June 8, 1984 (8 Ill. Reg. 8249).

FIRE MARSHAL, OFFICE OF THE STATE

Storage, Transportation, Sale and Use of Gasoline and Volatile Oils; Rules and Regulations Relating to Service Stations (41 Ill. Adm. Code 170)

Proposal Originally Published in Illinois Register, June 8, 1984 (8 Ill. Reg. 8079).

This Joint Committee action from the meeting of September 20, 1984 was published in the Illinois Register, October 12, 1984 (8 Ill. Reg. 20122).

Objection 1: The Joint Committee objected to Section 170.150 of the rules of the Office of the State Marshal entitled "Storage, Transportation, Sale and Use of Volatile Oils Rules and Regulations Relating to Service Stations" because the Office lacks the specific statutory authority to issue self-service station permits and to prohibit operation of self-service stations without such permits.

Objection 2: The Joint Committee objected to Section 170.150(e)(2) of the rules of the Office of the State Fire Marshal entitled "Storage, Transportation, Sale and Use of Volatile Oil Rules and Regulations Relating to Service Stations" because the provision fails to show the standards used in making the determination of whether to issue, renew, suspend or revoke a permit in cases of a violation of, or failure to comply with, these rules, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 3: The Joint Committee objected to Section 170.150(d)(14) of the rules of the Office of the State Fire Marshal entitled "Storage, Transportation, Sale and Use of Volatile Oils Rules and Regulations Relating to Service Stations" because the provision violates Section 4.02 of the Illinois Administrative Procedure Act in that it lacks the standards used to determine if a service station permit will be revoked for failure to instruct employees in the location, operation and use of the communication system, the control station, and the fire extinguishing equipment, operation of pumps, and safety regulations for dispensing fuel or for an employee's failure to know this information.

Objection 4: The Joint Committee objected to Sections 170.150(d)(7)(G)(i) and (ii) of the rules of the Office of the State Fire Marshal entitled "Storage, Transportation, Sale and Use of Volatile Oils Rules and Regulations Relating to Service Stations" because the rules are misleading in that they appear to permit the dispensing of motor fuel into containers not always in conformity with "An Act prescribing the color and label for gasoline or benzol receptacles."

Objection 5: The Joint Committee objected to Section 170.76(c)(5) of the rules of the Office of the State Fire Marshal entitled "Storage, Transportation, Sale and Use of Volatile Oils Rules and Regulations Relating to Service Stations" because the practical effect of the rule's use of the term "emergency repairs" will actually be to permit almost any weekend repair job

to be initiated without prior approval, thus creating a situation in which the rule does not accurately reflect agency policy.

Recommendation 1: The Joint Committee suggested that the Office draft and introduce legislation to grant the Office the power to issue permits for self-service stations.

Recommendation 2: The Joint Committee suggested that the Office of the State Fire Marshal develop legislation to amend "An Act prescribing the color and label for gasoline or benzol receptacles" to delete the requirement that containers containing gasoline or benzol be labeled in a contrasting color.

Agency Response to Objections: Refusal to Modify or Withdraw, May 3, 1985 (9 Ill. Reg. 6338).

Agency Response to Recommendations: Agreement (received December 26, 1984).

Published as Adopted: June 21, 1985 (9 Ill. Reg. 9514).

GUARDIANSHIP AND ADVOCACY COMMISSION, ILLINOIS

Legal Advocacy Service (59 Ill. Adm. Code 350)

Proposal Originally Published in Illinois Register, February 24, 1984 (8 Ill. Reg. 2397).

This Joint Committee action from the meeting of June 12, 1984 was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10181).

Objection 1: The Joint Committee objected to Section 350.115(a) of this rulemaking proposal regarding referral of clients because the Commission is not making legal referrals "to the extent practicable" as required by Section 11 of the Guardianship and Advocacy Act.

Objection 2: The Joint Committee objected to proposed Section 350.130 on the basis that it conflicts with Section 5(i) of the Guardianship and Advocacy Act by waiving fees for persons who have been found to have sufficient financial resources to pay the Commission for the legal services received.

Objection 3: The Joint Committee objected to Section 350.105 of this proposed rule on the basis that the Commission lacks the statutory authority to consider the financial resources of the eligible client's entire family unit in determining the client's ability to pay for legal services.

Recommendation 1: The Joint Committee suggested to the Guardianship and Advocacy Commission that the Commission promulgate rules regarding acceptance of cases by the Legal Advocacy Commission, as well as the grievance procedure available to potential clients.

Recommendation 2: The Joint Committee suggested to the Commission that it seek legislation to amend Section 5(i) of the Act if it believes it should be

allowed to waive payment of fees in certain cases where the eligible recipient of legal services is able to pay.

Recommendation 3: The Joint Committee suggested to the Commission that it seek legislation to amend Section 5(i) of the Act if the Commission believes it should have the authority to consider the financial resources of the eligible client's family unit in determining the client's ability to pay for legal services provided by the Commission.

Recommendation 4: The Joint Committee suggested to the Guardianship and Advocacy Commission that the Commission promulgate rules regarding the provision of hearings for clients prior to termination or suspension of services for failure to pay.

Agency Response to Objections: Modification, September 21, 1984 (8 Ill. Reg. 17339); Notice of Failure to Remedy (1,2, and 3), November 2, 1984 (8 Ill. Reg. 21774).

Agency Response to Recommendations: Agreement (1, 2, 3) (response received September 4, 1984). Failure to Respond (4).

Published as Adopted: September 21, 1984 (8 Ill. Reg. 17286).

HIGHER EDUCATION, BOARD OF

Repeal - Chapter IV- A Master Plan for Postsecondary Education in Illinois

Proposal Originally Published in Illinois Register, January 27, 1984 (8 Ill. Reg. 1092).

This Joint Committee action from the meeting of April 10, 1984 was published in the Illinois Register, April 20, 1984 (8 Ill. Reg. 5388).

Objection: The Joint Committee objected to the Board of Higher Education's repeal of its "Master Plan" for Higher Education because the Board is required by Illinois Revised Statutes, 1983, ch. 144, pars. 186 and 189, to include such plan in its rules.

Agency Response: Withdrawal, July 27, 1984 (8 Ill. Reg. 13448).

Repeal - Chapter IX - State Statutory Grant Programs and Requirements Fifth Pathway Program

Proposal Originally Published in Illinois Register, January 27, 1984 (8 Ill. Reg. 1196).

This Joint Committee action from the meeting of April 24, 1984 was published in the Illinois Register, May 4, 1984 (8 Ill. Reg. 6219).

Recommendation: The Joint Committee suggested to the Board of Higher Education that it seek legislation to repeal the paragraph of Section 5 of the

Medical Practice Act which requires the Department of Registration and Education to adopt guidelines for the purpose of funding supervised clinical training because this paragraph is obsolete.

Agency Response: Agreement (response received July 20, 1984).

Published as Adopted: September 14, 1984 (8 Ill. Reg. 16817).

Engineering Grant Program (23 Ill. Adm. Code 1025)

Proposal Originally Published in Illinois Register, January 27, 1984 (8 Ill. Reg. 1230).

This Joint Committee action from the meeting of April 24, 1984 was published in the Illinois Register, May 4, 1984 (8 Ill. Reg. 6221).

Objection: The Joint Committee objected to proposed Sections 1025.30(a) and 1025.40(b) of the Board of Higher Education's rules because they conflict with Section 9.13 of the "Act creating a Board of Higher Education" (Illinois Revised Statutes, 1983, ch. 144, par. 189.13).

Agency Response: Modification, September 14, 1984 (8 Ill. Reg. 16938).

Published as Adopted: September 14, 1984 (8 Ill. Reg. 16871).

Illinois Financial Assistance Act for Nonpublic Institutions of Higher Learning
(23 Ill. Adm. Code 1000)

Proposal Originally Published in Illinois Register, January 27, 1984 (8 Ill. Reg. 1243).

This Joint Committee action from the meeting of April 24, 1984 was published in the Illinois Register, May 4, 1984 (8 Ill. Reg. 6232).

Objection: The Joint Committee objected to Section 1000.60(d) because the standards for determining whether grant funds were properly spent are not stated "as precisely and clearly as practicable" as required by Section 4.02 of the Illinois Administrative Procedure Act.

Recommendation: The Joint Committee suggested that the Board of Higher Education seek legislation authorizing it to require enrollment audits of grantee institutions.

Agency Response to Objection: Modification, September 14, 1984 (8 Ill. Reg. 16943).

Agency Response to Recommendation: Agreement (response received July 30, 1984).

Published as Adopted: September 14, 1984 (8 Ill. Reg. 16890).

Health Services Education Grants Act (23 Ill. Adm. Code 1020)

Proposal Originally Published in Illinois Register, January 27, 1984 (8 Ill. Reg. 1231).

This Joint Committee action from the meeting of April 24, 1984 was published in the Illinois Register, May 4, 1984 (8 Ill. Reg. 6224).

Objection 1: The Joint Committee objected to the Board of Higher Education's Health Services Education Grants Act rules because the Health Services Education Grants Act (Ill. Rev. Stat. 1983, ch. 111½, pars. 821-824) which provides for State grants to non-profit health service educational facilities does not authorize the Board to promulgate rules for its implementation.

Objection 2: The Joint Committee objected to Section 1020.40 of the Board of Higher Education's Health Services Education Grants Act rules (23 Ill. Adm. Code 1020) because the Board has not provided adequate standards which determine grant levels as is required under Section 4.02 of the Illinois Administrative Procedure Act.

Recommendation 1: The Joint Committee suggested to the Board that the Board seek legislation in the Spring session of the General Assembly to explicitly authorize the Board to promulgate rules for the Health Services Education Grants Act.

Recommendation 2: The Joint Committee suggested that the Board seek legislation which will clarify Section 4 of the Health Services Grants Act with respect to criteria used in determining qualifications for the different types of grants issued under these rules.

Recommendation 3: The Joint Committee suggested that the Board of Higher Education seek legislation authorizing it to require enrollment audits.

Agency Response to Objections: Refusal to Modify or Withdraw (1), Modification (2), September 14, 1984 (8 Ill. Reg. 16940).

Agency Response to Recommendations: Agreement (response received July 24, 1984).

Published as Adopted: September 14, 1984 (8 Ill. Reg. 16878).

Noninstructional Capital Improvements and Community College Locally-Funded Capital Projects (23 Ill. Adm. Code 1040)

Proposal Originally Published in Illinois Register, January 27, 1984 (8 Ill. Reg. 1253).

This Joint Committee action from the meeting of April 24, 1984 was published in the Illinois Register, May 4, 1984 (8 Ill. Reg. 6236).

Objection: The Joint Committee objected to Section 1040.30(b) because the standards governing the Board's approval of noninstructional capital improvements and locally funded projects are not stated as precisely and

clearly as practicable, as required by Section 4.02 of the Illinois Administrative Procedure Act.

Agency Response: Modification, September 14, 1984 (8 Ill. Reg. 16944).

Published as Adopted: September 14, 1984 (8 Ill. Reg. 16899).

HUMAN RIGHTS, ILLINOIS DEPARTMENT OF
HUMAN RIGHTS COMMISSION, ILLINOIS

Interpretive Rules on Sex Discrimination in Employment (Sex Discrimination Rules) (Sections 5, 7, 7(4), and 12)

Proposal Originally Published in Illinois Register, February 18, 1983 (7 Ill. Reg. 2042).

This Joint Committee action from the meeting of January 18, 1984 was published in the Illinois Register, February 17, 1984 (8 Ill. Reg. 2222).

Objection 1: The Joint Committee objected to the Department of Human Rights and Human Rights Commission's "Interpretive Rules on Sex Discrimination in Employment (Sex Discrimination Rules)" because the proposed rulemaking, if read in conjunction with the "Notice" published in the Illinois Register, is not a "rule" as defined by Section 3.09 of the Illinois Administrative Procedure Act.

Objection 2: The Joint Committee objected to the "Interpretive Rules on Sex Discrimination in Employment (Sex Discrimination Rules)" because the proposed rulemaking fails to include relevant agency policy, in violation of Section 3.09 of the Illinois Administrative Procedure Act.

Objection 3: The Joint Committee objected to Section 5 of the Department of Human Rights and the Human Rights Commission's "Interpretive Rules on Sex Discrimination in Employment (Sex Discrimination Rules)" because the rule fails to include the standards used by the Department and Commission in determining what constitutes "substantially similar work," in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 4: The Joint Committee objected to Section 7 of the Department of Human Rights and the Human Rights Commission's "Interpretive Rules on Sex Discrimination in Employment (Sex Discrimination Rules)" because the rule fails to include the standards used by the Department and Commission in determining what constitutes "bona fide occupational qualifications" and whether such qualifications are necessary for "safe" and "efficient" job performance.

Objection 5: The Joint Committee objected to Sections 7(4) and 12 of the Department of Human Rights and the Human Rights Commission's "Interpretive Rules on Sex Discrimination in Employment (Sex Discrimination Rules)" because the rules fail to include the standards used by the Department and Commission in making determinations of "reasonableness" and "unreasonableness," in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Agency Response: Withdrawal, May 11, 1984 (8 Ill. Reg. 6845).

INDUSTRIAL COMMISSION OF ILLINOIS

Insurance Regulations (50 Ill. Adm. Code 7100)

Proposal Originally Published in Illinois Register, August 31, 1984 (8 Ill. Reg. 15830).

This Joint Committee action from the meeting of November 8, 1984 was published in the Illinois Register, November 30, 1984 (8 Ill. Reg. 23300).

Recommendation: The Joint Committee suggested that the Industrial Commission of Illinois promulgate hearing rules as required by Section 4 of the Illinois Administrative Procedure Act, and Section 6 of the Workers' Compensation Act, because the Commission does not currently have any such rules.

Agency Response: Agreement (response received February 4, 1985).

Published as Adopted: March 22, 1985 (9 Ill. Reg. 3705).

INSURANCE, DEPARTMENT OF

Premium Fund Trust Account (50 Ill. Adm. Code 3113)

Proposal Originally Published in Illinois Register, August 24, 1984 (8 Ill. Reg. 15546).

This Joint Committee action from the meeting of November 8, 1984 was published in the Illinois Register, November 30, 1984 (8 Ill. Reg. 23302).

Objection: The Joint Committee objected to Section 3113.50(b) of the Department of Insurance rules entitled "Premium Fund Trust Account" because the provision violates Section 4.02 of the Illinois Administrative Procedure Act in that it fails to set forth the standards by which it is determined that books and records have been "accurately" maintained.

Agency Response: Modification, December 28, 1984 (8 Ill. Reg. 25145).

Published as Adopted: December 28, 1984 (8 Ill. Reg. 25007).

Workers' Compensation Experience Reporting (50 Ill. Adm. Code 2903)

Proposal Originally Published in Illinois Register, May 25, 1984 (8 Ill. Reg. 7180).

This Joint Committee action from the meeting of September 20, 1984 was published in the Illinois Register, October 12, 1984 (8 Ill. Reg. 20135).

Objection 1: The Joint Committee objected to Section 2903.30 of the Department of Insurance's proposed rules entitled "Workers' Compensation Experience Reporting" (50 Ill. Adm. Code 2903.30) because that section improperly delegates to the National Council on Compensation Insurance ("NCCI") the Department's authority to develop a statistical plan and the Department's authority to promulgate rules regarding the recording and reporting of loss and expense experience.

Objection 2: The Joint Committee objected to Section 2903.40 of the proposed rules of the Department of Insurance entitled "Workers' Compensation Experience Reporting" (50 Ill. Adm. Code 2903.40) because this section conflicts with Section 466(1) of the Illinois Insurance Code (Ill. Rev. Stat. 1983, ch. 73, par. 1065.13).

Recommendation: The Joint Committee suggested to the Department of Insurance that it seek legislation which would authorize it to approve, rather than promulgate, statistical plans.

Agency Response to Objections: Failure to Respond. Rule withdrawn by operation of law due to the failure of the agency to respond to the objections within the statutory time period. Withdrawal published January 11, 1985 (9 Ill. Reg. 445).

Agency Response to Recommendation: Failure to Respond.

LABOR, DEPARTMENT OF

Toxic Substances Disclosure to Employees (56 Ill. Adm. Code 205.20 and 205.21 Table A)

Proposal Originally Published in Illinois Register, February 3, 1984 (8 Ill. Reg. 1516).

This Joint Committee action from the meeting of May 15, 1984 was published in the Illinois Register, June 1, 1984 (8 Ill. Reg. 7705).

Recommendation: The Joint Committee recommended that the Department of Labor, within 30 days, initiate rulemaking to modify the Illinois Toxic Substances List to delete therefrom calcium hydroxide and calcium oxide.

Agency Response: Refusal (response received June 4, 1984).

Published as Adopted: June 1, 1984 (8 Ill. Reg. 7838).

Toxic Substances Disclosure to Employees (56 Ill. Adm. Code 205)

Proposal Originally Published in Illinois Register, June 1, 1984 (8 Ill. Reg. 7751).

This Joint Committee action from the meeting of September 20, 1984 was published in the Illinois Register, October 12, 1984 (8 Ill. Reg. 20142).

Objection 1: The Joint Committee objected to Sections 205.230(b), (c) and (d) of the Department's proposed rules entitled "Toxic Substances Disclosure to Employees" because the Department lacks the statutory authority to exempt employers from the labeling requirements of Section 8 of the "Toxic Substances Disclosure to Employees Act" if the employer has made a "good faith effort" to obtain a label.

Objection 2: The Joint Committee objected to Section 205.230(e) of the Department's proposed rules because the Department lacks the statutory authority to exempt small businesses from the labeling requirements of Section 8 of the "Toxic Substances Disclosure to Employees Act."

Objection 3: The Joint Committee objected to Sections 205.230(h)(2), (3) and (4) of the Department's proposed rules entitled "Toxic Substances Disclosure to Employees" because the Department lacks the statutory authority to exempt certain products from the labeling requirements of Section 8 of the "Toxic Substances Disclosure to Employees Act."

Objection 4: The Joint Committee objected to Section 205.310(f) of the Department's proposed rules entitled "Toxic Substances Disclosure to Employees" because the Department lacks statutory authority to exempt sealed packages containing toxic materials from the labeling provisions of Section 8 of the "Toxic Substances Disclosure to Employees Act".

Objection 5: The Joint Committee objected to Section 205.230(i) of the Department's proposed rules entitled "Toxic Substances Disclosure to Employees" because the proposed rule fails to provide standards for the exercise of agency discretion as required by Section 4.02 of the Illinois Administrative Procedure Act in determining what common names will be accepted by the Department in identifying toxic substances for labeling purposes.

Objection 6: The Joint Committee objected to Section 205.310(i) of the Department's proposed rules entitled "Toxic Substances Disclosure to Employees" because the Department lacks statutory authority to revoke an exemption granted by Section 6(b) of the "Toxic Substances Disclosure to Employees Act."

Objection 7: The Joint Committee objected to Section 205.310(i) of the Department's proposed rules entitled "Toxic Substances Disclosure to Employees" because the proposed rule fails to include the standards by which the Department determines whether or not laboratories in which a toxic substance is used are under the direct supervision of technically qualified individuals.

Objection 8: The Joint Committee objected to Section 205.310(b) of the Department's proposed rules entitled "Toxic Substances Disclosure to Employees" because by not exempting "special waste" from the Toxic Substances Disclosure to Employees Act," the Department has violated the legislative intent of the Act.

Objection 9: The Joint Committee objected to Section 205.270(e) of the Department's proposed rules entitled "Toxic Substances Disclosure to Employees" because the Department lacks statutory authority to place

substances included in Material Safety Data Sheets on a "Proposed Revised Toxic Substance Disclosure to Employees List" and not on the "Toxic Substances List" as required by Section 5 of the "Toxic Substance Disclosure to Employees Act."

Objection 10: The Joint Committee objected to Section 205.270(d) of the Department's proposed rules entitled "Toxic Substances Disclosure to Employees" because the Department lacks statutory authority to establish a Technical Advisory Panel to recommend additions to or deletions from the Toxic Substance List.

Objection 11: The Joint Committee objected to Section 205.270 of the Department's proposed rules entitled "Toxic Substances Disclosure to Employees" because the Department lacks statutory authority for the hearing procedures contained therein.

Objection 12: The Joint Committee objected to Section 205.220(b) of the Department's proposed rules because the procedures for submission of Material Safety Data Sheets contained therein violate the legislative intent of the "Toxic Substances Disclosure to Employees Act."

Objection 13: The Joint Committee objected to Section 205.250 of the Department of Labor's rules entitled "Toxic Substances Disclosure to Employees" because that rule violates the legislative intent of the "Toxic Substances Disclosure to Employees Act" by not providing an extension of time, under certain circumstances, for initial training of employees routinely exposed to toxic substances.

Recommendation 1: The Joint Committee suggested to the Department of Labor that it develop legislation which would grant it the statutory authority to exempt employers from the labeling requirements of Section 8 of the "Toxic Substances Disclosure to Employees Act" if the employer has made a "good faith effort" to obtain a label.

Recommendation 2: The Joint Committee suggested to the Department that it develop legislation which would grant it the statutory authority to exempt small businesses from the labeling requirements of Section 8 of the "Toxic Substance Disclosure to Employees Act."

Recommendation 3: The Joint Committee suggested to the Department that it develop legislation which would grant it the statutory authority to exempt certain products from the labeling requirements of Section 8 of the "Toxic Substances Disclosure to Employees Act."

Recommendation 4: The Joint Committee suggested to the Department that it develop legislation which would grant it the statutory authority to exempt sealed packages containing toxic materials from the labeling provisions of Section 8 of the "Toxic Substances Disclosure to Employees Act."

Recommendation 5: The Joint Committee suggested to the Department that it develop legislation which would allow it to exempt "special waste" from the "Toxic Substances Disclosure to Employees Act."

Recommendation 6: The Joint Committee suggested to the Department that it develop legislation to amend Section 5 of the "Toxic Substances Disclosure to Employees Act" to grant the Department the statutory authority to place substances included in Material Safety Data Sheets on a "Proposed Revised Toxic Substance Disclosure to Employees List."

Recommendation 7: The Joint Committee suggested to the Department that it develop legislation to amend Section 4 of the "Toxic Substances Disclosure to Employees Act" to grant the Department the statutory authority to establish a Technical Advisory Panel to recommend additions to and deletions from the Toxic Substance List.

Recommendation 8: The Joint Committee suggested to the Department that it develop legislation to amend Section 4 of the "Toxic Substances Disclosure to Employees Act" to grant the Department the statutory authority to implement the hearing procedures which it has developed.

Recommendation 9: The Joint Committee suggested to the Department that it seek legislation amending Section 5 of the "Toxic Substances Disclosure to Employees Act" to require that only manufacturers submit Material Safety Data Sheets to the Department.

Agency Response to Objections: Modification (5, 6, 7, 8, 12, and 13), Refusal to Modify or Withdraw (1, 2, 3, 4, 9, 10, and 11), November 9, 1984 (8 Ill. Reg. 22167). Notice of Failure to Remedy (5 and 7), February 1, 1985 (9 Ill. Reg. 1492).

Agency Response to Recommendations: Failure to Respond.

Published as Adopted: November 9, 1984 (8 Ill. Reg. 22058).

LAW ENFORCEMENT MERIT BOARD, DEPARTMENT OF

Procedures of the Department of Law Enforcement Merit Board (80 Ill. Adm. Code 150.680)

Proposal Originally Published in Illinois Register, June 1, 1984 (8 Ill. Reg. 7774).

This Joint Committee action from the meeting of September 20, 1984 was published in the Illinois Register, October 12, 1984 (8 Ill. Reg. 20173).

Objection: The Joint Committee objected to Section 150.680(a) of the Department of Law Enforcement Merit Board's rules entitled "Procedures of the Department of Law Enforcement Merit Board (80 Ill. Adm. Code 150.680(a))" because Section 150.680(a) fails to include the standards used by the Board to determine whether an officer who is found guilty or has served a greater period of suspension than prescribed by the Board shall receive compensation, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Agency Response: Failure to Respond. Rule withdrawn by operation of law due to the failure of the agency to respond to the objection within the statutory time period. Withdrawal published January 11, 1985 (9 Ill. Reg. 446).

LIQUOR CONTROL COMMISSION, ILLINOIS

Rules and Regulations of the Illinois Liquor Control Commission (11 Ill. Adm. Code 100)

Proposal Originally Published in Illinois Register, December 16, 1983 (7 Ill. Reg. 16510).

This Joint Committee action from the meeting of March 13, 1984 was published in the Illinois Register, March 23, 1984 (8 Ill. Reg. 3831).

Recommendation: The Joint Committee suggested to the Illinois Liquor Control Commission that it develop legislation which would amend Article V, Section 1(e) of the Liquor Control Act (Ill. Rev. Stat., 1981, ch. 43, par. 115(e)) to allow the holder of a "railroad license" to import alcoholic liquors into this State.

Agency Response: Agreement (response received April 25, 1984).

Published as Adopted: May 4, 1984 (8 Ill. Reg. 6041).

LOCAL GOVERNMENTAL LAW ENFORCEMENT OFFICERS TRAINING BOARD, ILLINOIS

Illinois Police Training Act (20 Ill. Adm. Code 1720.20(h))

Proposal Originally Published in Illinois Register, October 14, 1983 (7 Ill. Reg. 13335).

This Joint Committee action from the meeting of January 18, 1984 was published in the Illinois Register, February 17, 1984 (8 Ill. Reg. 2231).

Objection: The Joint Committee objected to Section 1720.20(h) of rules on the Illinois Police Training Act because the section is vague and does not inform police trainees of the minimum passing score required to successfully complete the State Comprehensive Examination which must be passed to qualify as a permanent law enforcement officer.

Agency Response: Modification, February 17, 1984 (8 Ill. Reg. 2241).

Published as Adopted: July 13, 1984 (8 Ill. Reg. 12259).

MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES, DEPARTMENT OF

Recipient Rights (59 Ill. Adm. Code 111.10)

Proposal Originally Published in Illinois Register, March 23, 1984 (8 Ill. Reg. 3505).

This Joint Committee action from the meeting of June 12, 1984 was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10194).

Objection: The Joint Committee objected to Section 111.10(b)(2)(B) of the Department's rules because the Department excludes legal counsel from its grievance proceedings and therefore does not provide "appropriate due process standards" as required by Federal regulations.

Agency Response: Modification, November 9, 1984 (8 Ill. Reg. 22169).

Published as Adopted: November 9, 1984 (8 Ill. Reg. 22086).

Recipient Rights (59 Ill. Adm. Code 111.20)

Proposal Originally Published in Illinois Register, March 9, 1984 (8 Ill. Reg. 2798).

This Joint Committee action from the meeting of June 12, 1984 was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10196).

Objection 1: The Joint Committee objected to Section 111.20(d)(2) of the Department of Mental Health and Developmental Disabilities' rules because these rules are not clearly and accurately stated, in violation of Section 220.900(b)(3) of the Joint Committee's Operational Rules (1 Ill. Adm. Code 220), and because the rules do not provide adequate standards for use of discretionary power in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 2: The Joint Committee objected to Section 111.20(f) of the Department of Mental Health and Developmental Disabilities' rules because the Department has not clearly stated its policy with regard to "alternative treatment/habilitation programs" and therefore fails to meet the review criteria contained in Section 220.900(b)(3) of the Joint Committee's Operational Rules (1 Ill. Adm. Code 220).

Agency Response: Modification, November 9, 1984 (8 Ill. Reg. 22169).

Published as Adopted: November 9, 1984 (8 Ill. Reg. 22086).

Services Charges (59 Ill. Adm. Code 106)

Proposal Originally Published in Illinois Register, January 20, 1984 (8 Ill. Reg. 771).

This Joint Committee action from the meeting of September 20, 1984 was published in the Illinois Register, October 12, 1984 (8 Ill. Reg. 20175).

Objection 1: The Joint Committee objected to Section 106.25(d) of the rules of the Department of Mental Health and Developmental Disabilities entitled "Services Charges" because the Department lacks the statutory authority to require payments from private hospitalization insurance at the prevailing maximum charge for recipients when recipients not covered by insurance are only required to pay a maximum of 30% of the maximum charge irregardless of their financial condition.

Objection 2: The Joint Committee objected to Section 106.45(c) of the Department of Mental Health and Developmental Disabilities' rules entitled "Services Charges" because the Department lacks the statutory authority to assess services charges at the maximum rate of charge against responsible relatives who refuse to submit requested financial information to the Department.

Agency Response: Modification, November 16, 1984 (8 Ill. Reg. 22628).

Published as Adopted: November 16, 1984 (8 Ill. Reg. 22555).

MINES AND MINERALS, DEPARTMENT OF

Special Prime Farmland Permit and Reclamation Rules (Section 1785.17(a))

Date Originally Published in Illinois Register, May 20, 1983 (7 Ill. Reg. 6206).

This JCAR action at the meeting of January 18, 1984 was published in the Illinois Register, February 17, 1984 (8 Ill. Reg. 2234).

Objection: The Joint Committee objected to Section 1785.17(a) of the Special Prime Farmland Permit and Reclamation Rules of the Department of Mines and Minerals because the rule will be afforded retroactive effect, in violation of Section 9.01(h) of the Surface Coal Mining Land Conservation and Reclamation Act and Section 5.01 of the Illinois Administrative Procedure Act.

Recommendation: The Joint Committee recommended that the Department of Mines and Minerals cease its practice of implementing and enforcing policies and procedures not adopted as rules pursuant to the requirement of the Illinois Administrative Procedure Act.

Agency Response: Failure to Respond. Rule withdrawn by operation of law due to the failure of the agency to respond to the objection within the statutory time period. Withdrawal published May 11, 1984 (8 Ill. Reg. 6856).

Agency Response to Recommendation: Failure to Respond.

NUCLEAR SAFETY, DEPARTMENT OF

Radiation Inspector Qualifications (32 Ill. Adm. Code 410)

Proposal Originally Published in Illinois Register, March 30, 1984 (8 Ill. Reg. 3981).

This Joint Committee action from the meeting of September 20, 1984 was published in the Illinois Register, October 12, 1984 (8 Ill. Reg. 20179).

Objection: The Joint Committee objected to the Department of Nuclear Safety's rule entitled "Radiation Inspector Qualifications" because the rule fails to implement the statutory mandate of Section 8.9 of the Radiation Protection Act, which is to allow for the inspection and testing of radiation installations and radiation sources by non-Departmental inspectors.

Agency Response: Refused in Part, Modified in Part, November 30, 1984 (8 Ill. Reg. 23329).

Published as Adopted: November 30, 1984 (8 Ill. Reg. 23209).

POLLUTION CONTROL BOARD

Fees (35 Ill. Adm. Code 718)

Proposal Originally Published in Illinois Register, March 23, 1984 (8 Ill. Reg. 3513).

This Joint Committee action from the meeting of June 12, 1984 was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10205).

Objection: The Joint Committee objected to the Pollution Control Board's rule on hazardous waste permit and inspection fees because the rule is not within the intent of the statutory authority upon which it is based.

Recommendation: The Joint Committee suggested to the Pollution Control Board that it seek legislation clarifying the definition of "facility" as used in Section 5(f) of the Environmental Protection Act.

Agency Response to Objection: Refusal to Modify or Withdraw, September 28, 1984 (8 Ill. Reg. 17934).

Agency Response to Recommendation: Failure to Respond.

Notice of Withdrawal Published: September 28, 1984 (8 Ill. Reg. 17938). (Statutory authority repealed pursuant to P.A. 83-1235).

Effluent and Water Quality Standards (35 Ill. Adm. Code 406)

Proposal Originally Published in Illinois Register, January 6, 1984 (8 Ill. Reg. 78).

This Joint Committee action from the meeting of June 12, 1984 was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10200).

Objection 1: The Joint Committee objected to Sections 406.106(e), 406.204, 406.205, and 406.206 of the rules of the Pollution Control Board for mine waste effluent and water quality standards (35 Ill. Adm. Code 406) because the terminology used in these sections is vague and lacks the clarity necessary for an understanding of the rules.

Objection 2: The Joint Committee objected to Sections 406.203 and 406.205(b)(8) of the rules of the Pollution Control Board for mine waste effluent and water quality standards because of the vagueness of terminology used and the failure of the rules to provide standards for the exercise of Agency discretion as required by Section 4.02 of the Illinois Administrative Procedure Act.

Recommendation: The Joint Committee suggested to the Illinois Pollution Control Board that it consider the utilization of the process of preliminary review of proposed rules, set forth at Section 220.200 of the Joint Committee's Operational Rules (1 Ill. Adm. Code 220).

Agency Response to Objections: Refusal to Modify or Withdraw, July 27, 1984 (8 Ill. Reg. 13449).

Agency Response to Recommendation: Failure to Respond.

Published as Adopted: July 27, 1984 (8 Ill. Reg. 13239).

Enforcement Proceedings (35 Ill. Adm. Code 103)

Proposal Originally Published in Illinois Register, June 29, 1984 (8 Ill. Reg. 9888).

This Joint Committee action from the meeting of December 11, 1984 was published in the Illinois Register, December 21, 1984 (8 Ill. Reg. 24759).

Objection 1: The Joint Committee objected to Section 103.268(c)(2) of the rules of the Pollution Control Board entitled "Enforcement Proceedings" (35 Ill. Adm. Code 103.268(c)(2)) because the rule fails to include standards the Board will use to determine whether it will require additional financial assurance as part of RCRA enforcement order, as required by Section 4.02 of the Illinois Administrative Procedure Act.

Objection 2: The Joint Committee objected to Section 103.263(a) of the rules of the Pollution Control Board entitled "Enforcement Proceedings" (35 Ill. Adm. Code 103.263(a)) because the rule fails to include standards that will be used by the Board to determine in what amount of time the Agency must file and serve a draft permit, or a statement that no RCRA permit needs to be issued or modified, as required by Section 4.02 of the Illinois Administrative Procedure Act.

Agency Response: Modification, February 1, 1985 (9 Ill. Reg. 1479).

Published as Adopted: February 1, 1985 (9 Ill. Reg. 1383).

State and NPDES Permits (35 Ill. Adm. Code 405.109 and 405.110)

Proposal Originally Published in Illinois Register, January 6, 1984 (8 Ill. Reg. 93).

This Joint Committee action from the meeting of June 12, 1984 was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10209).

Recommendation: The Joint Committee suggested that the Pollution Control Board that it promulgate as rules standards for determining what is a "substantial" change in a mine abandonment plan incorporated in NPDES and State permits as provided in Section 405.109(e) of the Board's rules on State and NPDES Permits.

Agency Response: Failure to Respond.

Published as Adopted: July 27, 1984 (8 Ill. Reg. 13267).

PUBLIC AID, DEPARTMENT OF

Aid to the Aged, Blind and Disabled - Special Needs Authorizations (89 Ill. Adm. Code 113.303) Proposal Originally Published in Illinois Register, January 13, 1984 (8 Ill. Reg. 433).

Aid to Families with Dependent Children - Special Needs Authorizations, (89 Ill. Adm. Code 112.308) Proposal Originally Published in Illinois Register, January 13, 1984 (8 Ill. Reg. 413).

Food Stamps - Financial Factors of Eligibility for Food Stamps (89 Ill. Adm. Code 121.55) Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12768).

Food Stamps (89 Ill. Adm. Code 121.150-121.208) Proposal Originally Published in Illinois Register, October 14, 1983 (7 Ill. Reg. 13353).

General Assistance - Special Needs Authorizations (89 Ill. Adm. Code 114.402) Proposal Originally Published in Illinois Register, January 13, 1984 (8 Ill. Reg. 463).

General Assistance - General Assistance Jobs Program (89 Ill. Adm. Code 114.100(e) - 114.100(j)) Proposal Originally Published in Illinois Register, November 28, 1983 (7 Ill. Adm. Code 15744).

Rules of Practice in Administrative Hearings (89 Ill. Adm. Code 104.400-104.480) Proposal Originally Published in Illinois Register, October 14, 1983 (7 Ill. Reg. 13343).

This Joint Committee action from the meeting of May 15, 1984 was published in the Illinois Register, June 1, 1984 (8 Ill. Reg. 7938).

Recommendation: The Joint Committee suggested to the Director of the Department of Public Aid that he immediately, through his administrative authority, coordinate the policy development activities of the various

divisions, bureaus, units, etc., of the Department of Public Aid with the rulemaking activities of the Department's legal staff in order to end the Department of Public Aid's continuous and systematic violations of the Illinois Administrative Procedure Act.

Agency Response: Failure to Respond.

Published as Adopted: See the individual Department of Public Aid rule.

Aid to the Aged, Blind and Disabled (AABD)(Blind, Disabled and Presumptive Eligibility) (89 Ill. Adm. Code 113.40, 113.50, 113.302)

Proposal Originally Published in Illinois Register, December 23, 1983 (7 Ill. Reg. 16716).

This Joint Committee action from the meeting of April 10, 1984 was published in the Illinois Register, April 20, 1984 (8 Ill. Reg. 5392).

Objection: The Joint Committee objected to Sections 113.40(d) and 113.50(d) of the Department of Public Aid's rules concerning the determination of blindness and disability for the Aid to the Aged, Blind, and Disabled program because the Department lacks the statutory authority to require individuals to undergo treatments for disability and blindness as a condition of continuing eligibility.

Agency Response: Modification, May 11, 1984 (8 Ill. Reg. 6849).

Published as Adopted: May 11, 1984 (8 Ill. Reg. 6746).

Aid to the Aged, Blind and Disabled (AAED) (Payment Amounts) (89 Ill. Adm. Code 113)

Proposal Originally Published in Illinois Register, April 6, 1984 (8 Ill. Reg. 4439).

This Joint Committee action from the meeting of June 12, 1984 was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 9848).

Objection: The Joint Committee objected to Section 113.260 "Shelter Care Rates" of the Department of Public Aid's rules because the Department has not clearly and simply stated its policies regarding the determination of the reimbursement rates for shelter care in violation of Section 220.900 of the Operational Rules of the Joint Committee.

Agency Response: Modification, July 27, 1984 (8 Ill. Reg. 13450).

Published as Adopted: July 27, 1985 (8 Ill. Reg. 13273).

Aid to the Aged, Blind, and Disabled (AAED) - Special Needs Authorizations (89 Ill. Adm. Code 113.303)

Proposal Originally Published in Illinois Register, January 13, 1984 (8 Ill. Reg. 433).

This Joint Committee action from the meeting of May 15, 1984 was published in the Illinois Register, June 1, 1984 (8 Ill. Reg. 7945).

Objection 1: The Joint Committee objected to the Department of Public Aid's proposed rulemaking "Special Needs Authorizations" for the Aid to the Aged, Blind, or Disabled program, because the proposed rulemaking did not adequately inform the public as to the changes being made in its policies by this proposed amendment.

Objection 2: The Joint Committee objected to Section 113.303 "Special Needs Authorizations" of the Department of Public Aid's rules, because the Department has implemented relevant agency policy without having promulgated the policies, in violation of Section 5 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, July 6, 1984 (8 Ill. Reg. 11687).

Published as Adopted: July 6, 1984 (8 Ill. Reg. 11414).

Aid to Families with Dependent Children (AFDC) - Work Incentive Demonstration Participation (89 Ill. Adm. Code 112.72)

Proposal Originally Published in Illinois Register, January 20, 1984 (8 Ill. Reg. 817).

This Joint Committee action from the meeting of September 20, 1984 was published in the Illinois Register, October 12, 1984 (8 Ill. Reg. 20188).

Objection: The Joint Committee objected to Section 112.72(b)(2)(B)(vi) of the rules of the Department of Public Aid implementing the Work Incentive Demonstration Program because, contrary to the requirements of Section 4.02 of the Illinois Administrative Procedure Act, the Department has not clearly and precisely set forth the standards by which the Department determines "a registrant seriously disrupts a WDP activity or the orderly administration" of the program.

Agency Response: Refusal to Modify or Withdraw, December 28, 1984 (8 Ill. Reg. 25146).

Published as Adopted: December 28, 1984 (8 Ill. Reg. 25023).

Aid to Families with Dependent Children - Special Needs Authorizations (89 Ill. Adm. Code 112)

Proposal Originally Published in Illinois Register, January 13, 1984 (8 Ill. Reg. 413).

This Joint Committee action from the meeting of May 15, 1984 was published in the Illinois Register, June 1, 1984 (8 Ill. Reg. 7941).

Objection 1: The Joint Committee objected to the Department of Public Aid's proposed rulemaking "Special Needs Authorizations" for the Aid to Families with Dependent Children program, because the proposed rulemaking did not adequately inform the public as to the changes being made in its policies by this proposed amendment.

Objection 2: The Joint Committee objected to Section 112.308 "Special Needs Authorizations" of the Department of Public Aid's rules, because the Department has implemented relevant agency policy without having promulgated the policies pursuant to the Illinois Administrative Procedure Act, in violation of Section 5 of the Act.

Agency Response: Refusal to Modify or Withdraw, July 6, 1984 (8 Ill. Reg. 11684).

Published as Adopted: July 6, 1984 (8 Ill. Reg. 11391).

Application Process; Local Office Action on Application for Public Assistance (89 Ill. Adm. Code 110.15)

Proposal Originally Published in Illinois Register, December 23, 1983 (7 Ill. Reg. 16726).

This Joint Committee action from the meeting of April 10, 1984 was published in the Illinois Register, April 20, 1984 (8 Ill. Reg. 5390).

Objection: The Joint Committee objected to proposed Section 110.15 of the Department of Public Aid's rules because that section violates the requirement of Section 11-4 of the Public Aid Code that applications for public assistance be deemed applications for all such benefits.

Agency Response: Refusal to Modify or Withdraw, May 11, 1984 (8 Ill. Reg. 5850).

Published as Adopted: May 11, 1984 (8 Ill. Reg. 6760).

Medical Assistance Programs (MANG) (89 Ill. Adm. Code 120.313 and 120.314)

Proposal Originally Published in Illinois Register, December 23, 1983 (7 Ill. Reg. 16729).

This Joint Committee action from the meeting of April 10, 1984 was published in the Illinois Register, April 20, 1984 (8 Ill. Reg. 5396).

Objection: The Joint Committee objected to Section 120.314(d) of the Department of Public Aid's rules concerning the determination of blindness and disability for the medical assistance program because the Department

lacks the statutory authority to require individuals to undergo treatments for disability and blindness as a condition of continuing eligibility.

Recommendation: The Joint Committee suggested to the Department that it seek the necessary legislation to require individuals to undergo treatments for disability and blindness deemed necessary by the Department as a condition of continuing eligibility if the Department believes that recipients ought to be required to undergo such treatment as a condition for eligibility.

Agency Response to Objection: Modification, May 11, 1984 (8 Ill. Reg. 6851).

Agency Response to Recommendation: Withdrawal (response received May 8, 1984).

Published as Adopted: May 11, 1984 (8 Ill. Reg. 6770).

Food Stamps (Expedited Services, Sponsors of Aliens, Gross Monthly Income, and Strikers) (89 Ill. Adm. Code 121.55)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 9823).

This Joint Committee action from the meeting of May 15, 1984 was published in the Illinois Register, June 1, 1984 (8 Ill. Reg. 7949).

Objection: The Joint Committee objected to Section 121.55 of the Department of Public Aid's rule concerning Financial Factors of Eligibility for Food Stamps because the Department has implemented relevant agency policy without going through the general rulemaking procedure, in violation of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, July 27, 1984 (8 Ill. Reg. 13451).

Published as Adopted: July 27, 1984 (8 Ill. Reg. 13284).

Food Stamps (89 Ill. Adm. Code 121.150 through 121.208)

Proposal Originally Published in Illinois Register, October 14, 1983 (7 Ill. Reg. 13353).

This Joint Committee action from the meeting of March 13, 1984 was published in the Illinois Register, March 23, 1984 (8 Ill. Reg. 3834).

Objection: The Joint Committee objected to the proposed amendments to Sections 121.150 through 121.208 of the Department of Public Aid's rules governing intentional violations of the Food Stamp Program because the Department has implemented relevant agency policy without going through the general rulemaking procedure, in violation of Section 5 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, April 27, 1984 (8 Ill. Reg. 5726).

Published as Adopted: April 27, 1984 (8 Ill. Reg. 5673).

Food Stamps - Exempt Assets and Students (89 Ill. Adm. Code 121.58 and 121.74)

Proposal Originally Published in Illinois Register, September 9, 1983 (7 Ill. Reg. 11069).

This Joint Committee action from the meeting of July 18, 1984 was published in the Illinois Register, August 3, 1984 (8 Ill. Reg. 13941).

Recommendation: The Joint Committee recommended that the Department of Public Aid promulgate rules regarding what assets are to be considered in determining eligibility for food stamps, and how the value of these non-exempt assets is to be computed.

Agency Response: None.

Published as Adopted: Rule withdrawn by operation of law for failure to adopt within one year of proposal (Ill. Rev. Stat. 1983, ch. 127, par. 1005.01(d)).

General Assistance - Jobs Program (89 Ill. Adm. Code 114.100)

Proposal Originally Published in Illinois Register, November 28, 1983 (7 Ill. Reg. 15744).

This Joint Committee action from the meeting of March 13, 1984 was published in the Illinois Register, March 9, 1984 (8 Ill. Reg. 3836).

Objection: The Joint Committee objected to Sections 114.100(c) and 114.100(j) of the Department of Public Aid's rules governing the General Assistance Jobs Program because the Department has implemented relevant agency policy without going through the general rulemaking procedure, in violation of Section 5 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, April 20, 1984 (8 Ill. Reg. 5378).

Published as Adopted: April 20, 1984 (8 Ill. Reg. 5233).

General Assistance (Special Needs Authorizations) (89 Ill. Adm. Code 114.402)

Proposal Originally Published in Illinois Register, January 13, 1984 (8 Ill. Reg. 463).

This Joint Committee action from the meeting of May 15, 1984 was published in the Illinois Register, June 1, 1984 (8 Ill. Reg. 7951).

Objection 1: The Joint Committee objected to the Department of Public Aid's proposed rulemaking "Special Needs Authorizations" for the General Assistance program, because the proposed rulemaking did not adequately inform the public as to the changes being made in its policies by this proposed amendment.

Objection 2: The Joint Committee objected to Section 114.402 "Special Needs Authorizations" of the Department of Public Aid's rules, because the Department has implemented relevant agency policy without having promulgated the policies, in violation of Section 5 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, July 6, 1984 (8 Ill. Reg. 11690).

Published as Adopted: July 6, 1984 (8 Ill. Reg. 11435).

Medical Payment (Medical and In-Home Care Program for Disabled Persons 18 Years Old or Younger) (89 Ill. Adm. Code 140.645)

Proposal Originally Published in Illinois Register, December 23, 1983 (7 Ill. Reg. 16739).

This Joint Committee action from the meeting of April 10, 1984 was published in the Illinois Register, April 20, 1984 (8 Ill. Reg. 5400).

Recommendation: The Joint Committee suggested to the Department of Public Aid that it update Section 140.3 of its rules as necessary to clarify its policies regarding the provision of medical assistance to disabled persons who are 18 years of age and younger.

Agency Response: Agreement.

Published as Adopted: June 29, 1984 (8 Ill. Reg. 10032).

Medical Payment (Support Costs Components) (89 Ill. Adm. Code 140.561)

Proposal Originally Published in Illinois Register, March 30, 1984 (8 Ill. Reg. 4044).

This Joint Committee action from the meeting of June 12, 1984 was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 10213).

Objection: The Joint Committee objected the proposed amendment to Section 140.561 of the Department of Public Aid's rules because the Department does not base the support cost rate of nursing home facilities on projected budgets submitted by nursing homes as required by Section 5-5.4 of the Illinois Public Aid Code (Ill. Rev. Stat. 1983, ch. 23, par. 5-5.4).

Agency Response: Failure to Respond. Rule withdrawn by operation of law due to the failure of the agency to respond to the objection within the

statutory time period. Withdrawal published October 19, 1984 (8 Ill. Reg. 20718).

Medical Payment (89 Ill. Adm. Code 140.855)

Proposal Originally Published in Illinois Register, March 9, 1984 (3 Ill. Reg. 2803).

This Joint Committee action from the meeting of June 12, 1984 was published in the Illinois Register, June 29, 1984 (3 Ill. Reg. 10211).

Objection: The Joint Committee objected to Section 140.855 "Evaluation of Need for Care" of the Department of Public Aid's rules because the Department has not clearly and simply stated its policies regarding the determination of the need for care for sheltered care residents in violation of Section 220.900 of the Operational Rules of the Joint Committee.

Agency Response: Modification, July 27, 1984 (8 Ill. Reg. 13453).

Published as Adopted: July 27, 1984 (8 Ill. Reg. 13343).

Medical Payment - Drug Manual (89 Ill. Adm. Code 140.72) (Proposed as 89 Ill. Adm. Code 1400.500)

Proposal Originally Published in the Illinois Register, July 29, 1983 (7 Ill. Reg. 8624).

This Joint Committee action from the meeting of May 15, 1984 was published in the Illinois Register, June 1, 1984 (8 Ill. Reg. 7958).

Objection: The Joint Committee objected to this proposed amendatory rulemaking concerning Section 140.72 of the Department of Public Aid's rules, the Department's Drug Manual, because this rulemaking does not include the full text of the rule with all proposed additions underlined and proposed deletions struck out in violation of Section 5.01 of the Illinois Administrative Procedure Act and 1 Ill. Adm. Code 100.420(c).

Agency Response: Refusal to Modify or Withdraw, August 3, 1984 (8 Ill. Reg. 13986).

Published as Adopted: August 3, 1984 (8 Ill. Reg. 13779).

Medical Payment - Drug Manual (89 Ill. Adm. Code 140.72)

Proposal Originally Published in Illinois Register, December 30, 1983 (7 Ill. Reg. 17262).

This Joint Committee action from the meeting of May 15, 1984 was published in the Illinois Register, June 1, 1984 (3 Ill. Reg. 7955).

Objection: The Joint Committee objected to this proposed rule concerning Section 140.72 of the Department of Public Aid's rules, the Department's Drug Manual, because this rulemaking does not include the full text of the rule with all proposed additions underlined and proposed deletions struck out, in violation of Section 5.01 of the Illinois Administrative Procedure Act and 1 Ill. Adm. Code 100.420(c).

Agency Response: Modification (through recodification), February 24, 1984 (8 Ill. Reg. 2483). Notice of Failure to Remedy, November 30, 1984 (8 Ill. Reg. 23349).

Published as Adopted: August 3, 1984 (8 Ill. Reg. 13779).

Medical Payment (Clients with Exceptional Nursing Care Needs) (89 Ill. Adm. Code 140.569)

Proposal Originally Published in Illinois Register, June 8, 1984 (8 Ill. Reg. 8120).

This Joint Committee action from the meeting of September 20, 1984 was published in the Illinois Register, October 12, 1984 (8 Ill. Reg. 20184).

Objection 1: The Joint Committee objected to Section 140.569 of the Department of Public Aid's rules governing medical payment because the Department lacks the statutory authority to impose physical requirements and requirements as to the qualifications of personnel of group care facilities as a precondition for the receipt of a special rate of payment for the provision of services to clients with exceptional nursing care needs.

Objection 2: The Joint Committee objected to Section 140.569(b) of the rules of the Department of Public Aid because the Department lacks the statutory authority to review whether a nursing home facility has met the licensure and certification standards for skilled nursing care and exceptional skilled nursing care of the Department of Public Health.

Agency Response: Refusal to Modify or Withdraw, December 28, 1984 (8 Ill. Reg. 25148).

Published as Adopted: December 28, 1984 (8 Ill. Reg. 25067).

Medical Payment (89 Ill. Adm. Code 140.460 - 140.462, and 140.464)

Proposal Originally Published in Illinois Register, April 13, 1984 (8 Ill. Reg. 4823).

This Joint Committee action from the meeting of August 23, 1984 was published in the Illinois Register, September 7, 1984 (8 Ill. Reg. 16502).

Objection 1: The Joint Committee objected to Section 140.462(a)(2)(C)(ii) "Covered Services in Clinics" of the Department of Public Aid's rules because the Department does not have the statutory authority to distinguish and classify services provided to individuals within the group of "AFDC/AABD

recipients or within the group of AFDC-MANG/AABD-MANG recipients under Section 5-5 of the Public Aid Code.

Objection 2: The Joint Committee objected to Section 140.462(a)(2)(C)(ii) of the Department of Public Aid's "Covered Services in Clinics" because, by restricting the provision of Type B Psychiatric service to individuals through the age of 21, the rule conflicts with the requirement of 42 CFR 440.240 that services to the categorically medically needy be equal in amount, duration and scope for all recipients within the group.

Agency Response: Failure to Respond. Rule withdrawn by operation of law due to the failure of the agency to respond to the objections within the statutory time period. Withdrawal published January 4, 1985 (9 Ill. Reg. 253).

Medical Payment (General Provisions) (89 Ill. Adm. Code 140.2, 140.18, 140.21)

Proposal Originally Published in Illinois Register, July 29, 1983 (7 Ill. Reg. 8624)

This Joint Committee action from the meeting of March 13, 1984 was published in the Illinois Register, March 23, 1984 (8 Ill. Reg. 3838).

Objection: The Joint Committee objected to Section 140.2(g) of the Department of Public Aid's rules because the Department has not included relevant policy concerning which recipients may receive medical services from providers of prepaid full service medical coverage.

Agency Response: Modification, May 11, 1984 (8 Ill. Reg. 6852).

Published as Adopted: May 11, 1984 (8 Ill. Reg. 6785).

Rights and Responsibilities (Examining Department Records) (89 Ill. Adm. Code 102.83)

Proposal Originally Published in Illinois Register, March 23, 1984 (8 Ill. Reg. 3548).

This Joint Committee action from the meeting of July 18, 1984 was published in the Illinois Register, August 3, 1984 (8 Ill. Reg. 13945).

Objection: The Joint Committee objected to Section 102.83 of the Department of Public Aid's rules because they are vague, misleading, and fail to accurately state the Department's policy concerning who may have access to a client's case record.

Agency Response: Refusal to Modify or Withdraw, October 5, 1984 (8 Ill. Reg. 18937).

Published as Adopted: October 5, 1984 (8 Ill. Reg. 18910).

Rights and Responsibilities (Multiple Convictions of Fraud-Eligibility; and Single Conviction of Fraud-Administrative Review Board) (89 Ill. Adm. Code 102.270, 102.280)

Proposal Originally Published in Illinois Register, December 23, 1983 (7 Ill. Reg. 16750).

This Joint Committee action from the meeting of July 18, 1984 was published in the Illinois Register, August 3, 1984 (8 Ill. Reg. 13947).

Objection: The Joint Committee objected to Section 102.270 of the Department of Public Aid's rules concerning the effect of convictions of fraud upon public assistance eligibility because the section does not include standards for determining when a substitute payee may be appointed to take the place of a caretaker relative, in violation of Section 4.02 of the Illinois Administrative Procedure Act, and because it does not include standards explaining the length of time for which a substitute payee may be appointed, in violation of Section 4.02 of the Act and Section 8A-8(c) of the Public Aid Code.

Agency Response: Failure to Respond. Rule withdrawn by operation of law due to the failure of the agency to respond to the objection within the statutory time period. Withdrawal published November 30, 1984 (8 Ill. Reg. 23351).

Rules of Practice in Administrative Hearings (89 Ill. Adm. Code 104.20)

Proposal Originally Published in Illinois Register, May 25, 1984 (8 Ill. Reg. 7195).

This Joint Committee action from the meeting of August 23, 1984 was published in the Illinois Register, September 7, 1984 (8 Ill. Reg. 16506).

Objection: The Joint Committee objected to Section 104.20(c) of the Department of Public Aid's "Rules of Practice in Administrative Hearings" because contrary to the requirement of Section 4.02 of the Illinois Administrative Procedure Act, the rule does not contain sufficient standards to indicate when a hearing officer or Public Aid Committee will deem it necessary and proper to deny persons access to an assistance appeals hearing.

Agency Response: Refusal to Modify or Withdraw, September 28, 1984 (8 Ill. Reg. 17994).

Published as Adopted: September 28, 1984 (8 Ill. Reg. 18114).

Rules of Practice in Administrative Hearings (89 Ill. Adm. Code 104.400 - 104.480)

Proposal Originally Published in Illinois Register, October 14, 1983 (7 Ill. Reg. 13343).

This Joint Committee action from the meeting of March 13, 1984 was published in the Illinois Register, March 23, 1984 (8 Ill. Reg. 3840).

Objection: The Joint Committee objected to the proposed amendments to Sections 104.400 through 104.480 of the Department of Public Aid's rules governing Food Stamp administrative disqualification hearings because the Department has implemented relevant agency policy without going through the general rulemaking procedure, in violation of Section 5.01 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, April 20, 1984 (8 Ill. Reg. 5379).

Published as Adopted: April 20, 1984 (8 Ill. Reg. 5274).

PUBLIC HEALTH, DEPARTMENT OF

Baccalaureate Assistance for Registered Nurses (77 Ill. Adm. Code 595)

Proposal Originally Published in Illinois Register, July 13, 1984 (8 Ill. Reg. 12003).

This Joint Committee action from the meeting of October 18, 1984 was published in the Illinois Register, November 2, 1984 (8 Ill. Reg. 21713).

Objection 1: The Joint Committee objected to Section 595.300(a) of the rules of the Department of Public Health governing Baccalaureate Assistance for Registered Nurses because that section would, in effect, authorize the Department to amend its rules in violation of Section 5 of the Illinois Administrative Procedure Act.

Objection 2: The Joint Committee objected to Section 595.200 because the Department has not complied with the requirements of Sections 4 and 5 of the Baccalaureate Assistance Law for Registered Nurses in establishing its criteria for the award of loans.

Objection 3: The Joint Committee objected to the definition of "reasonable promise of successfully completing the baccalaureate program in professional nursing" in Section 595.20 because the Department has not complied with the requirements of Section 5 of the Baccalaureate Assistance Law for Registered Nurses in establishing criteria for determining the eligibility of applicants.

Recommendation 1: The Joint Committee recommended that the Department of Public Health seek legislation which would authorize it to require loan recipients to agree to pay the costs of a suit, including attorney's fees, if the Department prevails in an action for damages under the loan contract.

Recommendation 2: The Joint Committee suggested that the Department of Public Health seek legislation which would permit the Department to employ financial need as the sole criterion for awarding loans under the Baccalaureate Assistance Law for Registered Nurses.

Recommendation 3: The Joint Committee suggested that if the Department of Public Health believes that it is unnecessary for the Department to make a finding that an applicant shows "reasonable promise of successfully completing the baccalaureate program in professional nursing," that the Department seek legislation to delete Section 5(d) from the Baccalaureate Assistance Law for Registered Nurses.

Agency Response to Objections: Refusal to Modify or Withdraw, November 26, 1984 (8 Ill. Reg. 22899).

Agency Response to Recommendations: Agreement, November 26, 1984 (8 Ill. Reg. 22899).

Published as Adopted: November 26, 1984 (8 Ill. Reg. 22874).

Control of Communicable Diseases (77 Ill. Adm. Code 690.720)

Proposal Originally Published in Illinois Register, June 29, 1984 (8 Ill. Reg. 9261).

This Joint Committee action from the meeting of October 18, 1984 was published in the Illinois Register, November 2, 1984 (8 Ill. 21726).

Objection: The Joint Committee objected to Section 690.720(b)(1) of the Department of Public Health's proposed rules for Control of Communicable Diseases because the Department has attempted to incorporate by reference guidelines of a federal agency, not published as rules, in violation of Section 6.02 of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, December 14, 1984 (8 Ill. Reg. 24348).

Published as Adopted: December 14, 1984 (8 Ill. Reg. 24135).

Emergency Medical Services (77 Ill. Adm. Code 535)

Proposal Originally Published in Illinois Register, November 4, 1983 (7 Ill. Reg. 14672).

This Joint Committee action from the meeting of February 23, 1984 was published in the Illinois Register, March 9, 1984 (8 Ill. Reg. 3081).

Objection 1: The Joint Committee objected to the proposed amendments to Section 535.10 of the Department of Public Health's rules governing Emergency Medical Services because the Department lacks the statutory authority to promulgate rules to create intermediate level service systems.

Objection 2: The Joint Committee objected to Section 535.440 of the Department of Public Health's rules on Emergency Medical Services because the Department lacks statutory authority to promulgate rules creating inactive status for EMT-I's.

Objection 3: The Joint Committee objected to Section 535.500 (g)(2) of the Department of Public Health's rules on Emergency Medical Services because the Department lacks statutory authority in Section 4.13 of the Act to promulgate rules requiring an EMT-P candidate to be currently functioning within a Department approved program.

Objection 4: The Joint Committee objected to Section 535.210(b)(3) of the Department of Public Health's rules on Emergency Medical Services because the Department lacks the statutory authority to promulgate rules allowing local health planning agencies to review and approve EMS System proposals.

Objection 5: The Joint Committee objected to the proposed amendments to Section 535.210(c)(2)(E) of the Department of Public Health's rules governing Emergency Medical Services because the Department lacks the statutory authority to promulgate rules granting all providers with a waiver of staffing requirements for one year.

Objection 6: The Joint Committee objected to the proposed amendments to Section 535.150(a)(1), 535.300(c) and (h), 535.510(a), 535.330(c), 535.400(c) and (h), 535.430(c), 535.500(c) and (e) and 535.530(d) of the Department of Public Health's rules governing Emergency Medical Services because they violate Section 6.02 of the Illinois Administrative Procedure Act.

Objection 7: The Joint Committee objected to Sections 535.310(a), 535.410(a), and 535.510(a) of the Department of Public Health's proposed rules on Emergency Medical Services because the Department has failed to completely describe its policy on testing procedures for certification of Emergency Medical Technicians.

Objection 8: The Joint Committee objected to Section 535.230 of the Department of Public Health's rules on Emergency Medical Services for failure to clearly set forth the duties of EMS System Coordinator, thereby potentially confusing the roles of nurses and paramedics.

Agency Response: Refusal to Modify or Withdraw (1, 2, 3, 5, and 6). Modification (4, 7, and 8), June 1, 1984 (8 Ill. Reg. 7719).

Publication as Adopted: July 6, 1984 (8 Ill. Reg. 11623).

Grade A Pasteurized Milk and Milk Products (77 Ill. Adm. Code 775)

Proposal Originally Published in Illinois Register, October 21, 1983 (7 Ill. Reg. 13797)

This Joint Committee action from the meeting of February 23, 1984 was published in the Illinois Register, March 9, 1984 (8 Ill. Reg. 3090).

Objection: The Joint Committee objected to 77 Ill. Adm. Code 775.10 because the incorporation by reference of Section 5 of the 1978, Grade A Pastuerized Milk Ordinance does not accurately reflect the Department's policy regarding the enforcement of the Ordinance.

Agency Response: Modification, March 30, 1984 (8 Ill. Reg. 4274).

Published as Adopted: March 3, 1984 (8 Ill. Reg. 4190).

Grant Payments for Goods/Services Rendered in Prior Fiscal Years (77 Ill. Adm. Code 190)

Proposal Originally Published in Illinois Register, January 27, 1984 (8 Ill. Reg. 1355).

This Joint Committee action from the meeting of May 15, 1984 was published in the Illinois Register, June 1, 1984 (8 Ill. Reg. 7707).

Objection: The Joint Committee objected to Sections 190.10 through 190.40 of the Department of Public Health's rules concerning grant payments for goods/services rendered in prior fiscal years because the Department does not have statutory authority to promulgate these rules.

Recommendation: The Joint Committee suggested to the Department that it seek legislation necessary to give the Department rulemaking authority to implement Section 25 of the "An Act in relation to State finance" (Ill. Rev. Stat. 1983, ch. 127, par. 161).

Agency Response to Objection: Refusal to Modify or Withdraw, June 29, 1984 (8 Ill. Reg. 10095).

Agency Response to Recommendation: Agreement, June 29, 1984 (8 Ill. Reg. 10095).

Published as Adopted: July 13, 1984 (8 Ill. Reg. 12359).

Hospice Licensing Program (77 Ill. Adm. Code 280)

Proposal Originally Published in Illinois Register, June 1, 1984 (8 Ill. Reg. 7546).

This Joint Committee action from the meeting of November 8, 1984 was published in the Illinois Register, November 30, 1984 (8 Ill. Reg. 23308).

Objection 1: The Joint Committee objected to Section 280.202(c) of the Department of Public Health's rules entitled "Hospice Programs" because the Department lacks the statutory authority to issue a hospice license to a hospice program which is not in compliance with the Hospice Program Licensing Act (Ill. Rev. Stat. 1983, ch. 111½, par. 6101 et seq.) and the Department's rules governing hospice programs.

Objection 2: The Joint Committee objected to Section 280.205(b) of the Department of Public Health's rules entitled "Hospice Programs" because the rule does not contain the standards required by Section 4.02 of the Illinois Administrative Procedure Act that will be used by the Department in determining what records and reports will be required of hospices and when they will be required.

Objection 3: The Joint Committee objected to Section 280.303(h) of the Department of Public Health's rules entitled "Hospice Programs" because the Department lacks the statutory authority to permit hospices to determine the number and qualifications of persons providing direct hospice services.

Recommendation 1: The Joint Committee suggested that the Department of Public Health seek legislation to delete the statutory requirements in Sections 5(2) and 9(c) of the Hospice Program Licensing Act that the Department structure hospice licensing standards so that they take into account the size of the hospice program.

Recommendation 2: The Joint Committee suggested that the Department of Public Health initiate rulemaking to prescribe for full hospices the qualifications of those persons under contract to provide indirect hospice services, as required by Section 9 of the Hospice Program Licensing Act.

Recommendation 3: The Joint Committee suggested that the Department of Public Health seek legislation to amend Section 7 of the Hospice Program Licensing Act to allow hospices that are not in compliance with the minimum hospice program licensing standards to receive a hospice license if the quality of care provided to patients is not compromised and the hospice has an acceptable plan of correction for all those aspects of the hospice which are not in compliance with the minimum standards for hospice program licensure.

Recommendation 4: The Joint Committee suggested that the Department of Public Health seek legislation to amend Section 9 of the Hospice Program Licensing Act if the Department believes that it cannot prescribe minimum standards regarding the number of persons providing direct hospice services beyond the composition of the Hospice Care Team.

Recommendation 5: The Joint Committee suggested that the Department of Public Health seek legislation to amend Section 6 of the Hospice Program Licensing Act to require hospices to be subject at all times to inspection by the Department.

Agency Response to Objection: Failure to Respond. Rule withdrawn by operation due to the failure of the agency to respond to the objection within the statutory time period. Withdrawal published March 8, 1985 (9 Ill. Reg. 3015).

Agency Response to Recommendation: Failure to Respond.

Minimum Standards - Licensure of Skilled Nursing and Intermediate Care Facilities - Division 1 (Rule 01.07.01.11) (77 Ill. Adm. Code 300).

Proposal Originally Published in Illinois Register, September 2, 1983 (7 Ill. Reg. 10724).

This Joint Committee action from the meeting of July 18, 1984 was published in the Illinois Register, August 3, 1984 (3 Ill. Reg. 13957).

Objection: The Joint Committee objected to Section 01.07.01.11 of the Department of Public Health's rules governing the Licensure of Skilled

Nursing and Intermediate Care Facilities because the section exceeds the statutory authority of the Department by allowing denial of a license because of the acts of an affiliate of the applicant.

Agency Response: Refusal to Modify or Withdraw, August 17, 1984 (8 Ill. Reg. 15099).

Published as Adopted: August 24, 1984 (8 Ill. Reg. 15947).

Minimum Standards - Licensure of Skilled Nursing and Intermediate Care Facilities - Division 8 (Rule 08.02.02.00) (77 Ill. Adm. Code 300).

Proposal Originally Published in Illinois Register, November 11, 1983 (7 Ill. Reg. 14926).

This Joint Committee action from the meeting of July 18, 1984 was published in the Illinois Register, August 3, 1984 (8 Ill. Reg. 13959).

Recommendation: The Joint Committee suggested to the Illinois Department of Public Health that it petition the United States Department of Health and Human Services to undertake rulemaking to clarify the standards for Intermediate Care Facilities other than Facilities for the Mentally Retarded 42 CFR 442 Subpart F (1983) in relation to whether registered nurses or pharmacists must conduct a monthly review of medication for each resident.

Agency Response: Agreement (response received August 31, 1984).

Published as Adopted: August 24, 1984 (8 Ill. Reg. 15603).

Minimum Standards - Licensure of Sheltered Care Facilities - Division 21 (Rule 21.07.01.11) (77 Ill. Adm. Code 330).

Proposal Originally Published in Illinois Register, September 2, 1983 (7 Ill. Reg. 10716).

This Joint Committee action from the meeting of July 18, 1984 was published in the Illinois Register, August 3, 1984 (8 Ill. Reg. 13955).

Objection: The Joint Committee objected to Section 21.07.01.11 of the Department of Public Health's rules governing the Licensure of Sheltered Care Facilities because the section exceeds the statutory authority of the Department by allowing denial of a license because of the acts of an affiliate of the applicant.

Agency Response: Refusal to Modify or Withdraw, August 17, 1984 (8 Ill. Reg. 15097).

Published as Adopted: August 31, 1984 (8 Ill. Reg. 15941).

Minimum Standards - Licensure of Intermediate Care Facilities for Developmentally Disabled - Division 40 (Rule 40.07.01.11) (77 Ill. Adm. Code 350).

Proposal Originally Published in Illinois Register, September 2, 1983 (7 Ill. Reg. 10693)

This Joint Committee action from the meeting of July 18, 1984 was published in the Illinois Register, August 3, 1984 (8 Ill. Reg. 13953)

Objection: The Joint Committee objected to Section 40.07.01.11 of the Department of Public Health's rules governing the Licensure of Intermediate Care Facilities for Developmentally Disabled because the section exceeds the statutory authority of the Department by allowing denial of a license because of the acts of an affiliate of the applicant.

Agency Response: Refusal to Modify or Withdraw, August 17, 1984 (8 Ill. Reg. 15094).

Published as Adopted: August 31, 1984 (8 Ill. Reg. 15935).

Minimum Standards - Licensure of Long-Term Care Facilities for Persons Under 22 Years of Age - Division 67 (67.02.02.00) ("Long Term Care for Under Age 22," 77 Ill. Adm. Code 390).

Proposal Originally Published in Illinois Register, November 14, 1983 (7 Ill. Reg. 14926).

This Joint Committee action from the meeting of July 18, 1984 was published in the Illinois Register, August 3, 1984 (8 Ill. Reg. 13950).

Recommendation: The Joint Committee suggested to the Illinois Department of Public Health that it petition the United States Department of Health and Human Services to undertake rulemaking to clarify the standards for Intermediate Care Facilities other than Facilities for the Mentally Retarded 42 CFR 442 Subpart F (1983) in relation to whether registered nurses or pharmacists must conduct a monthly review of medication for each resident.

Agency Response: Agreement (response received August 31, 1984).

Published as Adopted: August 24, 1984 (8 Ill. Reg. 15589).

Regionalized Perinatal Care (77 Ill. Adm. Code 640)

Proposal Originally Published in Illinois Register, January 20, 1984 (8 Ill. Reg. 836).

This Joint Committee action from the meeting of September 20, 1984 was published in the Illinois Register, October 12, 1984 (8 Ill. Reg. 20190).

Objection: The Joint Committee objected to Sections 640.40, 640.60 and 640.70 of the Department of Public Health's rules "Regionalized Perinatal Care" because the Department has delegated its authority to set standards for perinatal care to the regulated facilities in violation of Ill. Rev. Stat. 1983, ch. 111½, par. 2103 of the Department's legislative mandate to set such standards.

Recommendation: The Joint Committee has determined that the Department of Public Health should be granted the authority to delegate its authority to set standards for Perinatal Care to the regulated facilities, and therefore suggested that the Department seek legislation granting it such authority.

Agency Response to Objection: Refusal to Modify or Withdraw, October 12, 1984 (8 Ill. Reg. 19705).

Agency Response to Recommendation: Agreement (response received October 5, 1984).

Published as Adopted: October 12, 1984 (8 Ill. Reg. 19493).

RACING BOARD, ILLINOIS

Medication Rules (11 Ill. Adm. Code 509)

Proposal Originally Published in Illinois Register, December 2, 1983 (7 Ill. Reg. 16114).

This Joint Committee action from the meeting of March 13, 1984 was published in the Illinois Register, March 23, 1984 (8 Ill. Reg. 3842).

Objection 1: The Joint Committee objected to Section 509.90(e)(2)(C) because it conflicts with P.A. 83-788 by permitting a horse to be administered less than 250 mg. of furosemide.

Objection 2: The Joint Committee objected to Section 509.90(e)(1)(B) because it requires the state veterinarian to authorize race-day treatment of a horse with furosemide in a manner which conflicts with the requirements of P.A. 83-788.

Recommendation 1: The Joint Committee suggested that the Illinois Racing Board seek legislation which would authorize the Board to permit a smaller dosage of furosemide to be given.

Recommendation 2: The Joint Committee suggested that the Illinois Racing Board seek legislation to change the statutory requirements for authorization of race day treatment of bleeders to allow evidence, other than a certificate of examination, that the horse is on the official bleeder list.

Agency Response to Objections: Modification, April 27, 1984 (8 Ill. Reg. 5728).

Agency Response to Recommendations: Modification (response received June 20, 1984).

Published as Adopted: May 4, 1984 (8 Ill. Reg. 6094).

REGISTRATION AND EDUCATION, DEPARTMENT OF

Certified Shorthand Reporters Act (68 Ill. Adm. Code 200)

Proposal Originally Published in Illinois Register, January 13, 1984 (8 Ill. Reg. 493).

This Joint Committee action from the July 18, 1984 meeting was published in the Illinois Register, August 3, 1984 (8 Ill. Reg. 13962).

Objection: The Joint Committee objected to Section 200.40(b) of the Department of Registration and Education's rules because the rule conflicts with Section 14 of the Certified Shorthand Reporters Act (Ill. Rev. Stat. 1983, ch. 111, par. 6214) which requires submission of proof of current fitness to have a certificate restored.

Recommendation: The Joint Committee suggested to the Department that it draft and introduce legislation to amend Section 14 of the Certified Shorthand Reporters Act to remove the ambiguous language and to add flexibility to permit routine renewal in cases of short-term lapses.

Agency Response to Objection: Refusal to Modify or Withdraw, September 7, 1984 (8 Ill. Reg. 16527).

Agency Response to Recommendation: Failure to Respond.

Published as Adopted: September 7, 1984 (8 Ill. Reg. 16443).

Illinois Occupational Therapy Practice Act (68 Ill. Adm. Code 315)

Proposal Originally Published in Illinois Register, January 13, 1984 (8 Ill. Reg. 504).

This Joint Committee action from the meeting of July 18, 1984 was published in the Illinois Register, August 3, 1984 (8 Ill. Reg. 13966).

Objection 1: The Joint Committee objected to Section 315.120(c) of the Department of Registration and Education's rules for the administration of the Illinois Occupational Therapy Practice Act because contrary to the requirement of Ill. Rev. Stat. 1983, ch. 111, par. 3716 that the Department set "fees for the administration of this Act . . . by rule," the Department has not set the examination fee by rule.

Objection 2: The Joint Committee objected to Section 315.150(b) of the Department of Registration and Education's rules governing the licensing of applicants by endorsement because contrary to the requirements of Section

4.02 of the Illinois Administrative Procedure Act this section does not state precisely and clearly the standards used by the Department to exercise discretion in requiring an oral interview of an applicant for licensure by endorsement.

Objection 3: The Joint Committee objected to Sections 315.160(c) and (d) of the Department of Registration and Education's rules governing the restoration of licenses because contrary to the requirements of Section 4.02 of the Illinois Administrative Procedure Act these subsections do not precisely and clearly set forth the standards used by the Department when exercising its discretion on how and when an oral interview would be used to determine the competency of an individual to practice occupational therapy.

Objection 4: The Joint Committee objected to Section 315.120(e) of the Department's rules governing certification examinations for Occupational Therapists and Occupational Therapy Assistants because the Department does not have the statutory authority to delegate the responsibility of determining the standards for passage of these certification examinations to its testing service.

Objection 5: The Joint Committee objected to Section 315.160(a)(3) of the Department of Registration and Education's rules governing the restoration of a person's license which has been expired or been placed on inactive status for more than five years because this section, contrary to the requirements of Section 4.02 of the Illinois Administrative Act, does not precisely and clearly set forth the standards used by the Department when exercising its discretion to determine what proof of an applicant's fitness is acceptable.

Objection 6: The Joint Committee objected to Section 315.100(a) of the rules for the administration of the Illinois Occupational Therapy Practice Act which purports to set forth the Department of Registration and Education's criteria for approving programs of occupational therapy education because, contrary to the requirements of Section 4.02 of the Illinois Administrative Procedure Act, this section does not precisely and clearly state the standards by which the Department will grant approval.

Recommendation 1: The Joint Committee suggested that the Department seek legislation granting it the authority to delegate its duty to set the fee for the certification examination by rule to its testing service.

Recommendation 2: The Joint Committee suggested that the Department seek legislation granting the authority to delegate its duty to determine the standards for passage of the certification examination authorized by the Department to its testing service.

Agency Response to Objections: Refusal to Modify or Withdraw, September 7, 1984 (8 Ill. Reg. 16528).

Agency Response to Recommendations: Failure to Respond.

Published as Adopted: September 7, 1984 (8 Ill. Reg. 16455).

Medical Practice Act (63 Ill. Adm. Code 280)

Proposal Originally Published in Illinois Register, June 15, 1984 (8 Ill. Reg. 3686).

This Joint Committee action from the meeting of September 20, 1984 was published in the Illinois Register, October 12, 1984 (8 Ill. Reg. 20196).

Objection 1: The Joint Committee objected to Section 280.107(d) of the rules of the Department of Registration and Education entitled "Medical Practice Act" because Section 280.107(d) fails to provide standards for the exercise of discretion by the Department in determining (1) whether to question the information in an application for restoration of registration and (2) whether an oral interview will be used to determine the competency of an individual to practice medicine, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 2: The Joint Committee objected to Section 280.85(f) of the rules of the Department of Registration and Education entitled "Medical Practice Act" because Section 280.85(f) fails to include standards used to determine whether the Department will renew a visiting professor permit, as required by Section 4.02 of the Illinois Administrative Procedure Act, and because the Department is improperly delegating its statutory authority to make this discretionary determination to the Medical Practice Examining Committee.

Agency Response: Modification (1), November 2, 1984 (8 Ill. Reg. 21732), Refusal to Modify or Withdraw (2), November 2, 1984 (8 Ill. Reg. 21731). Notice of Failure to Remedy (1), February 1, 1985 (9 Ill. Reg. 1495).

Published as Adopted: November 2, 1984 (8 Ill. Reg. 21645).

Real Estate License Act (63 Ill. Adm. Code 450)

Proposal Originally Published in Illinois Register, June 22, 1984 (8 Ill. Reg. 9000).

This Joint Committee action from the meeting of November 8, 1984 was published in the Illinois Register, November 30, 1984 (8 Ill. Reg. 23321).

Objection 1: The Joint Committee objected to Section 450.30(b) of the rules of the Department of Registration and Education entitled "Real Estate License Act" because the Department lacks the statutory authority to limit salespersons to a 49% interest in corporations and to permit salespersons to have any interest in partnerships (Real Estate License Act of 1983, Ill. Rev. Stat. 1983, ch. 111, par. 5801 et seq.).

Objection 2: The Joint Committee objected to Section 450.20(e) of the rules of the Department of Registration and Education entitled "Real Estate License Act" because the rule conflicts with Section 13 of the Act by permitting a principal broker to replace the manager of an office for a thirty day period.

Recommendation 1: The Joint Committee suggested to the Department of Registration and Education that, if it believes the policy of Section 3 of the

Act to be inappropriate, the Department draft and introduce legislation to amend Section 3 of the Real Estate License Act appropriately.

Recommendation 2: The Joint Committee suggested to the Department of Registration and Education that it draft and introduce legislation to amend Section 13 of the Act to authorize principal brokers to control more than one office for a short period of time in certain circumstances.

Agency Response to Objections: Refusal to Modify or Withdraw, January 11, 1985 (9 Ill. Reg. 442).

Agency Response to Recommendations: Agreement (response received January 8, 1985).

Published as Adopted: January 11, 1985 (9 Ill. Reg. 341).

Rules of Practice in Administrative Hearings (68 Ill. Adm. Code 110)

Proposal Originally Published in Illinois Register, May 18, 1984 (8 Ill. Reg. 6957).

This Joint Committee action from the meeting of December 11, 1984 was published in the Illinois Register, December 21, 1984 (8 Ill. Reg. 24767).

Objection 1: The Joint Committee objected to Section 110.120(c) of the rules of the Department of Registration and Education entitled "Rules of Practice in Administrative Hearings" (89 Ill. Adm. Code 110) because the rule fails to include the standards to be used by hearing officers or examining committees in determining the procedure to be followed when a registrant fails to file an answer in response to a complaint, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 2: The Joint Committee objected to Section 110.170(c) of the "Rules of Practice in Administrative Hearings" (89 Ill. Adm. Code 110) of the Department of Registration and Education because the rule fails to include the standards to be used by the Department in exercising discretion in determining whether an Examining Committee is incapable of rendering an unprejudiced decision, in violation of Section 4.02 of the Illinois Administrative Procedure Act.

Objection 3: In addition, the Joint Committee objected to Section 110.170(c) because the Department lacks the statutory authority to substitute the report of a hearing officer for the Examining Committee's determination.

Agency Response: Modification (1), Withdrawal (2, 3), January 25, 1985 (9 Ill. Reg. 1175). Notice of Failure to Remedy (1), April 12, 1985 (9 Ill. Adm. Code 4951).

Published as Adopted: January 25, 1985 (9 Ill. Reg. 1110).

REHABILITATION SERVICES, DEPARTMENT OF

Authorizations (89 Ill. Adm. Code 520)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12794).

This Joint Committee action from the meeting of April 10, 1984 was published in the Illinois Register, April 20, 1984 (8 Ill. Reg. 5405).

Recommendation: The Joint Committee suggested to the Department of Rehabilitation Services that it promulgate as rules its policy on set rate of payments for supportive services referenced in Section 520.30(3)(b).

Agency Response: Agreement (response received July 31, 1984).

Published as Adopted: June 22, 1984 (8 Ill. Reg. 9104).

Homemaker Contracts (89 Ill. Adm. Code 712)

Proposal Originally Published in Illinois Register, November 28, 1983 (7 Ill. Reg. 15781).

This Joint Committee action from the meeting of September 20, 1984 was published in the Illinois Register, October 12, 1984 (8 Ill. Reg. 20199).

Recommendation: The Joint Committee suggested to the Department of Rehabilitation Services that it promulgate rules which set forth the criteria used to select which applicants will be awarded homemaker services contracts.

Agency Response: Failure to Respond.

Published as Adopted: December 7, 1984 (8 Ill. Reg. 23698).

Medical, Psychological and Related Services (89 Ill. Adm. Code 585)

Proposal Originally Published in Illinois Register, September 30, 1983 (7 Ill. Reg. 12808).

This Joint Committee action from the meeting of July 18, 1984 was published in the Illinois Register, August 3, 1984 (8 Ill. Reg. 13978).

Recommendation: The Joint Committee suggested to the Department of Rehabilitation Services that it promulgate as rules its policies on setting rates for the purchase of services under the Vocational Rehabilitation program.

Agency Response: Agreement (response received July 31, 1984).

Published as Adopted: September 21, 1984 (8 Ill. Reg. 17554).

Vending Stand Program for the Blind (89 Ill. Adm. Code 650.70)

Proposal Originally Published in Illinois Register, September 9, 1983 (7 Ill. Reg. 11111).

This Joint Committee action from the meeting of February 23, 1984 was published in the Illinois Register, March 9, 1984 (8 Ill. Reg. 3094).

Objection 1: The Joint Committee objected to Section 650.70(b)(9) because it does not contain standards required by Section 4.02 of the Illinois Administrative Procedure Act to govern the exercise of the Department's discretionary power to order "retraining" of a blind vendor.

Objection 2: The Joint Committee objected to Section 650.70 of this proposed rulemaking because the standards governing the use of the disciplinary actions set forth in that section are not stated "as precisely and clearly as practicable" as required by Section 4.02 of the Illinois Administrative Procedure Act.

Objection 3: The Joint Committee objected to Section 650.70(b)(8)(C) because it does not contain standards required by Section 4.02 of the Illinois Administrative Procedure Act for the exercise of the Director's discretion.

Recommendation: The Joint Committee suggested that the Department initiate rulemaking procedures to further develop standards for the Department's discretionary power to transfer or promote blind vendors within the Program.

Agency Response to Objection: Refusal to Modify or Withdraw, April 20, 1984 (8 Ill. Reg. 5382).

Agency Response to Recommendation: Agreement (response received April 9, 1984).

Published as Adopted: April 20, 1984 (8 Ill. Reg. 5285).

REVENUE, DEPARTMENT OF

Income Tax Regulations (Unitary Regulations) (Section 1501-1(h)(2); Section 202-3) (86 Ill. Adm. Code 100).

Proposal Originally Published in Illinois Register, July 29, 1983 (7 Ill. Reg. 3670).

This Joint Committee action from the meeting of March 13, 1984 was published in the Illinois Register, March 23, 1984 (8 Ill. Reg. 3853).

Objection 1: The Joint Committee objected to Section 1501-1(h)(2) of the Department of Revenue's proposed Income Tax Regulations on the basis that the Department's interpretation of the "same general line of business" test is not consistent with the Illinois Income Tax Act.

Objection 2: The Joint Committee objected to Section 202-3 of the Department of Revenue's proposed Income Tax Regulations on the basis that the rule is inconsistent with the concept of unitary taxation because it imposes a separate

accounting procedure for net operating loss carryovers while taxing income on a unitary basis.

Agency Response: Refusal to Modify or Withdraw, May 4, 1984 (8 Ill. Reg. 6240).

Published as Adopted: May 4, 1984 (8 Ill. Reg. 6184).

Property Tax/Revenue Act of 1939 (86 Ill. Adm. Code 110)

Proposal Originally Published in Illinois Register, May 25, 1984 (8 Ill. Reg. 7200).

This Joint Committee action from the meeting of September 20, 1984 was published in the Illinois Register, October 12, 1984 (8 Ill. Reg. 20201).

Recommendation: The Joint Committee suggested that the Department of Revenue promulgate as rules those portions of the Property Tax Administration Bureau's Operating Procedures #7 (OP-7) which are rules as defined in Section 3.09 of the Illinois Administrative Procedure Act.

Agency Response: Agreement (response received December 26, 1984).

Published as Adopted: December 14, 1984 (8 Ill. Reg. 24285).

SECRETARY OF STATE

Business Corporation Act (14 Ill. Adm. Code 150)

Proposal Originally Published in Illinois Register, September 21, 1984 (8 Ill. Reg. 17223).

This Joint Committee action from the meeting of December 11, 1984 was published in the Illinois Register, December 21, 1984 (8 Ill. Reg. 24771).

Objection: The Joint Committee objected to the rules of the Secretary of State entitled "Business Corporation Act" (14 Ill. Adm. Code 150) because the Secretary failed to comply with the small business flexibility requirements and the regulatory flexibility requirements of Sections 4.03 and 5.01, respectively, of the Illinois Administrative Procedure Act.

Agency Response: Refusal to Modify or Withdraw, February 1, 1985 (9 Ill. Reg. 1481).

Published as Adopted: February 1, 1985 (9 Ill. Reg. 1433).

Cancellation, Revocation or Suspension of Licenses or Permits (92 Ill. Adm. Code 1040.65)

Proposal Originally Published in Illinois Register, April 20, 1984 (8 Ill. Reg. 5139).

This Joint Committee action from the meeting of August 23, 1984 was published in the Illinois Register, September 7, 1984 (8 Ill. Reg. 16520).

Objection 1: The Joint Committee objected to Section 1040.65 of the Secretary of States' rules entitled "Cancellation, Revocation or Suspension of Licenses or Permit" on the basis that the Secretary lacks the statutory authority to promulgate rules regarding the reporting of traffic offenses which occur on military bases.

Objection 2: The Joint Committee objected to Section 1040.65 of the Secretary of States' rules entitled "Cancellation, Revocation or Suspension of Licenses or Permit" on the basis that the Secretary lacks the statutory authority to revoke or suspend driving privileges on the basis of reports of suspension or revocation of driving privileges by a branch of the Armed Forces.

Recommendation 1: The Joint Committee suggested that the Secretary of State develop legislation which would grant it the statutory authority to promulgate rules regarding the reporting of traffic offenses which occur on military bases.

Recommendation 2: The Joint Committee suggested that the Secretary of State develop legislation which would grant it the statutory authority to revoke or suspend driving privileges on the basis of reports of suspension or revocation of driving privileges by a branch of the Armed Services.

Agency Response to Objections: Refusal to Modify or Withdraw, November 30, 1984 (8 Ill. Reg. 23389).

Agency Response to Recommendations: Failure to Respond.

Published as Adopted: November 30, 1984 (8 Ill. Reg. 23385).

Illinois Library System Act (23 Ill. Adm. Code 3030)

Proposal Originally Published in Illinois Register, February 24, 1984 (8 Ill. Reg. 2421).

This Joint Committee action from the meeting of July 18, 1984 was published in the Illinois Register, August 3, 1984 (8 Ill. Reg. 13980).

Recommendation 1: The Joint Committee suggested that the Secretary of State promulgate rules in conjunction with the appropriate State institutional agencies to establish policies governing library service to state institutions.

Recommendation 2: The Joint Committee suggested that the Secretary of State promulgate rules which contain the State Library's policies for allocating grants to library systems.

Recommendation 3: The Joint Committee suggested that the Secretary of State promulgate rules to set forth the information which the State Librarian

requires to be included in a library system's annual report, submitted pursuant to Section 10 of the Library Systems Act, as well as the other information which the State Librarian requires systems to submit.

Agency Response: Agreement (response received December 5, 1984).

Published as Adopted: September 14, 1984 (8 Ill. Reg. 16914).

Public Building Construction (71 Ill. Adm. Code 2000)

Proposal Originally Published in Illinois Register, May 4, 1984 (8 Ill. Reg. 5864).

This Joint Committee action from the meeting of September 20, 1984 was published in the Illinois Register, October 12, 1984 (8 Ill. Reg. 20204).

Objection 1: The Joint Committee objected to Sections 2000.210(c) and 200.210(d) of the Secretary of State's proposed rules entitled "Public Building Construction" because, contrary to the requirements of Section 4.02 of the Illinois Administrative Procedure Act, the Secretary has not precisely and clearly set forth the standards by which the Secretary determines whether a bidder is responsible.

Objection 2: The Joint Committee objected to Sections 2000.230 and 2000.235 of the Secretary of State's proposed rules entitled "Public Building Construction" because the Secretary has failed to set forth the the standards by which it determines the amount of performance security required, as required by Section 4.02 of the Illinois Administrative Procedure Act.

Objection 3: The Joint Committee objected to Section 2000.320(e) of the Secretary of State's proposed rules entitled "Public Building Construction" because, contrary to Section 4.02 of the Illinois Administrative Procedure Act, the Secretary has failed to set forth precise and clear standards by which the Secretary determines that all bids received are at "unreasonable prices" requiring the rejection of bids.

Agency Response: Refusal to Modify or Withdraw, January 4, 1985 (9 Ill. Reg. 248).

Published as Adopted: January 4, 1985 (9 Ill. Reg. 174).

Public Library Construction Grants (23 Ill. Adm. Code 3060.900(f))

Proposal Originally Published in Illinois Register, February 14, 1983 (7 Ill. Reg. 1711).

This Joint Committee action from the meeting of January 18, 1984 was published in the Illinois Register, February 17, 1984 (8 Ill. Reg. 2239).

Objection: The Joint Committee objected to proposed Section 3060.900(f) because the rule fails to include adequate standards and criteria governing

when an "established alternative procedure" may be followed, in lieu of awarding contracts to the lowest qualified bidder.

Agency Response: Modification, February 24, 1984 (8 Ill. Reg. 2531).

Published as Adopted: February 24, 1984 (8 Ill. Reg. 2510).

Rulemaking Procedures for Codification (1 Ill. Adm. Code 100)

Proposal Originally Published in Illinois Register, April 6, 1984 (8 Ill. Reg. 4455).

This Joint Committee action from the meeting of June 12, 1984 was published in the Illinois Register, June 29, 1984 (8 Ill. Reg. 9848).

Statement of Approval: The State of Illinois Legislative Information System is responsible for maintaining the electronic data processing equipment and programs for the General Assembly. The System determined that "the proposed codification scheme and changes made thereto are compatible with the existing equipment and programs maintained by the Legislative Information System." As Joint Committee approval is conditioned solely upon this determination of compatibility, the Joint Committee approved the Secretary of State's "Rulemaking Procedures for Codification."

TRUSTEES OF THE UNIVERSITY OF ILLINOIS, BOARD OF

Certificate of Certified Public Accountant (23 Ill. Adm. Code 1300)

Proposal Originally Published in Illinois Register, April 13, 1984 (8 Ill. Reg. 4878).

This Joint Committee action from the meeting of September 20, 1984 was published in the Illinois Register, October 12, 1984 (8 Ill. Reg. 20212).

Objection 1: The Joint Committee objected to Section 1300.90(a) of the rules of the Board of Trustees of the University of Illinois entitled "Certificate of Certified Public Accountant" because Section 1300.90(a) violates Section 4.02 of the Illinois Administrative Procedure Act in that it fails to set forth the standards which will be used in "credentials evaluation" or for otherwise evaluating the applicant's course of study.

Objection 2: The Joint Committee objected to Section 1300.90(a) of the rules of the Board of Trustees of the University of Illinois entitled "Certificate of Certified Public Accountant" because Section 1300.90(a) violates Section 4.02 of the Illinois Administrative Procedure Act (IAPA) in that it fails to set forth the standards by which it is determined whether a school is "acceptable" to the University.

Objection 3: The Joint Committee objected to Section 1300.150 of the rules of the Board of Trustees of the University of Illinois entitled "Certificate of Certified Public Accountant" because Section 1300.150 violates Section 4.02 of the Illinois Administrative Procedure Act in that it fails to set forth the

standards by which it is determined that an outside service will be used to prepare and/or grade an examination or the standards by which the Board of Examiners determines that such examination will be adopted and approved.

Objection 4: The Joint Committee objected to Section 1300.160(d)(3) of the rules of the Board of Trustees of the University of Illinois entitled "Certificate of Certified Public Accountant" because Section 1300.160(d)(3) violates Section 4.02 of the Illinois Administrative Procedure Act in that it fails to set forth the standards used to determine whether an applicant's grades on subjects passed in another State will be approved by the Board of Examiners.

Agency Response: Withdrawal, December 21, 1984 (8 Ill. Reg. 24774).

Published as Adopted: December 21, 1984 (8 Ill. Reg. 24720).

1984 OBJECTIONS AND RECOMMENDATIONS
TO EMERGENCY RULES

CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF

Pay Plan (80 Ill. Adm. Code 310)

Emergency Rule Published in Illinois Register, February 3, 1984 (8 Ill. Reg. 334), effective December 22, 1983 for a maximum of 150 days.

This Joint Committee action from the meeting of February 23, 1984 was published in the Illinois Register, March 9, 1984 (8 Ill. Reg. 3053).

Recommendation to Emergency Rule: The Joint Committee suggested that the Department of Central Management Services exercise a greater degree of care when promulgating future emergency rules in light of the fact that the Illinois Administrative Procedure Act does not provide procedures for the correction of such rules after publication.

Agency Response: Failure to Respond.

COMMERCE COMMISSION, ILLINOIS

Uniform System of Accounts for Telephone Utilities (83 Ill. Adm. Code 710)

Emergency Rule Published in Illinois Register, June 1, 1984 (8 Ill. Reg. 7636), effective May 17, 1984 for a maximum of 150 days.

This Joint Committee action from the meeting of July 18, 1984 was published in the Illinois Register, August 3, 1984 (8 Ill. Reg. 13937).

Objection to Emergency Rule: The Joint Committee objected to the emergency amendment of the Illinois Commerce Commission's Uniform System of Accounts for Telephone Utilities (83 Ill. Adm. Code 710) because the "emergency" was the result of the Commission's failure to file proposed rules in a timely manner and, hence, does not satisfy the definition of "emergency" set forth in Section 5.02 of the Illinois Administrative Procedure Act.

Agency Response: Failure to Respond.

ENVIRONMENTAL PROTECTION AGENCY, ILLINOIS

Procedures for Operation of the Hazardous Waste Fee System (35 Ill. Adm. Code 855)

Emergency Rule Published in Illinois Register, May 18, 1984 (8 Ill. Reg. 7038), effective May 11, 1984 for a maximum of 150 days.

This Joint Committee action from the meeting of July 18, 1984 was published in the Illinois Register, August 3, 1984 (8 Ill. Reg. 13939).

Objection to Emergency Rule: The Joint Committee objected to the Environmental Protection Agency's emergency rules entitled "Procedures for Operation of the Hazardous Waste Fee System" (35 Ill. Adm. Code 855) because the Agency implemented its policies, but delayed adopting rules for five months, in violation of Sections 5 and 4(c) of the Illinois Administrative Procedure Act.

Agency Response: Failure to Respond.

FARM DEVELOPMENT AUTHORITY, ILLINOIS

Rules of the Illinois Farm Development Authority (8 Ill. Adm. Code 1400)

Emergency Rule Published in Illinois Register, January 6, 1984 (8 Ill. Reg. 363), effective December 27, 1983 for a maximum of 150 days.

This Joint Committee action from the meeting of February 23, 1984 was published in the Illinois Register, March 9, 1984 (8 Ill. Reg. 3074).

Objection to Emergency Rule: The Joint Committee objected to Section 1400.100(a) because no emergency exists which justifies the use of emergency rulemaking procedures as required by Section 5.02 of the Illinois Administrative Procedure Act.

Agency Response: Failure to Respond.

LABOR, DEPARTMENT OF

Toxic Substances Disclosure to Employees (56 Ill. Adm. Code 205)

Emergency Rule Published in Illinois Register, August 24, 1984 (8 Ill. Reg. 15628), effective August 14, 1984 for a maximum of 150 days.

This Joint Committee action from the meeting of September 20, 1984 was published in the Illinois Register, October 12, 1984 (8 Ill. Reg. 20171).

Objection to Emergency Rule: The Joint Committee objected to the Department of Labor's emergency rulemaking entitled "Toxic Substances Disclosure to Employees" (56 Ill. Adm. Code 205), effective August 14, 1984, as being in violation of Section 5.02 of the Illinois Administrative Procedure Act which prohibits the adoption of two or more emergency rules "having substantially the same purpose and effect" within a 24-month period, because the Illinois Department of Labor adopted an emergency rule with substantially the same purpose and effect on March 1, 1984.

Agency Response: Refusal (response received October 31, 1984).

LAW ENFORCEMENT MERIT BOARD, DEPARTMENT OF

Procedures of the Department of Law Enforcement Merit Board (80 Ill. Adm. Code 150)

Emergency Rule Published in Illinois Register, January 6, 1984 (8 Ill. Reg. 379), effective December 27, 1983 for a maximum of 150 days.

This Joint Committee action from the meeting of February 23, 1984 was published in the Illinois Register, March 9, 1984 (8 Ill. Reg. 3076).

Objection to Emergency Rule: The Joint Committee objected to the emergency rulemaking of the Department of Law Enforcement Merit Board because there is insufficient reason to believe that this rulemaking should be filed upon fewer days notice than is required by Section 5.01 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1981, ch. 127, par. 1005.01) because the "emergency" was the result of the failure of the Department to file proposed rules in a timely manner.

Agency Response: Failure to Respond.

NUCLEAR SAFETY, DEPARTMENT OF

Registration of Low-Level Radioactive Waste Generators (32 Ill. Adm. Code 620)

Emergency Rule Published in Illinois Register, October 5, 1984 (8 Ill. Reg. 18519), effective September 20, 1984 for a maximum of 150 days.

This Joint Committee action from the meeting of November 11, 1984 was published in the Illinois Register, November 30, 1984 (8 Ill. Reg. 23304).

Objection to Emergency Rule: The Joint Committee objected to the Department of Nuclear Safety's September 20, 1984 emergency rulemaking entitled "Registration of Low-Level Radioactive Waste Generators" because no emergency situation exists which requires use of the emergency rulemaking procedures of Section 5.02 of the Illinois Administrative Procedure Act.

Agency Response: Failure to Respond.

POLLUTION CONTROL BOARD

Landfills: Prohibited Hazardous Wastes (35 Ill. Adm. Code 729)

Emergency Rule Published in Illinois Register, July 13, 1984 (8 Ill. Reg. 12668), effective July 5, 1984 for a maximum of 150 days.

This Joint Committee action from the meeting of September 20, 1984 was published in the Illinois Register, October 12, 1984 (8 Ill. Reg. 20182).

Objection to Emergency Rule: The Joint Committee objected to Section 729.311 of the emergency rules of the Pollution Control Board entitled "Landfills: Prohibited Hazardous Wastes" which were promulgated to implement the provisions of Section 22.6 of Environmental Protection Agency which regulates the disposal of liquid hazardous waste, because the Board exceeded its statutory authority.

Agency Response: Failure to Respond.

PUBLIC HEALTH, DEPARTMENT OF

Baccalaureate Assistance for Registered Nurses (77 Ill. Adm. Code 595)

Emergency Rule Published in Illinois Register, July 13, 1984 (8 Ill. Reg. 12689), effective June 28, 1984 for a maximum of 150 days.

This Joint Committee action from the meeting of August 23, 1984 was published in the Illinois Register, September 7, 1984 (8 Ill. Reg. 16508).

Objection 1 to Emergency Rule: The Joint Committee objected to Section 595.20(b) of the Department of Public Health's rules on Baccalaureate Assistance for Registered Nurses because it defines "approved institution" in a manner which conflicts with the definition of that term contained in Section 3 of the Baccalaureate Assistance Law for Registered Nurses.

Objection 2 to Emergency Rule: The Joint Committee objected to Section 595.100(b) of the Department of Public Health's rules governing Baccalaureate Assistance for Registered Nurses because it permits the issuance of loans to persons who have not worked full-time in nursing during the year prior to application, in contravention of the requirements of Section 5 of the Baccalaureate Assistance Law for Registered Nurses.

Objection 3 to Emergency Rule: The Joint Committee objected to Section 595.300(b) of the Department of Public Health's rules governing Baccalaureate Assistance for Registered Nurses, because that section requires loan recipients to be employed in nursing full-time within 60 days of completion of the degree program in order to have part of the loan forgiven, in contravention of the requirements of Section 8 of the Baccalaureate Assistance Law for Registered Nurses.

Objection 4 to Emergency Rule: The Joint Committee objected to Section 595.320(a) of the Department of Public Health's rules governing Baccalaureate Assistance for Registered Nurses because that section imposes deferred repayment obligations upon loan recipients attending graduate school in nursing in contravention of Section 8 of the Baccalaureate Assistance Law for Registered Nurses which excuses repayment of loans to such recipients.

Objection 5 to Emergency Rule: The Joint Committee objected to Section 595.330 of the Department of Public Health's rules on Baccalaureate Assistance for Registered Nurses because the rule establishes different terms for forgiveness of loans than those required by Section 8 of the Baccalaureate Assistance Law for Registered Nurses.

Recommendation 1 to Emergency Rule: The Joint Committee suggested that the Department of Public Health seek legislation to amend the Baccalaureate Assistance Law for Registered Nurses to grant the Department the authority to issue loans to nurses who have not worked full-time during the year prior to application for the loan because they have been enrolled in a Baccalaureate program.

Recommendation 2 to Emergency Rule: The Joint Committee suggested that the Department of Public Health seek legislation to amend the Baccalaureate Assistance Law for Registered Nurses to grant the Department the authority to require loan recipients to be employed within 60 days of completion of the Baccalaureate program.

Agency Response to Objections: Modification, September 28, 1984 (8 Ill. Reg. 17939).

Agency Response to Recommendations: Failure to Respond.

RACING BOARD, ILLINOIS

Medication Rules (11 Ill. Adm. Code 509)

Emergency Rule Published in Illinois Register, December 2, 1983 (7 Ill. Reg. 16191), effective November 28, 1983 for a maximum of 150 days.

This Joint Committee action from the meeting of February 23, 1984 was published in the Illinois Register, March 9, 1984 (8 Ill. Reg. 3092).

Objection to Emergency Rule: The Joint Committee objected to Section 509.90(e)(1)(C) because it limits the State veterinarian's discretion to remove a horse from the bleeder list in a manner that is not authorized by Section 36a of the Horse Racing Act of 1975 (P.A. 83-788).

Agency Response: Failure to Respond.

REGISTRATION AND EDUCATION, DEPARTMENT OF

Illinois Occupational Therapy Practice Act (68 Ill. Adm. Code 315)

Emergency Rule Published in Illinois Register, January 13, 1984 (8 Ill. Reg. 676), effective January 1, 1984 for a maximum of 150 days.

This Joint Committee action from the meeting of March 13, 1984 was published in the Illinois Register, March 23, 1984 (8 Ill. Reg. 3848).

Objection to Emergency Rule: The Joint Committee objected to Section 315.90 of the emergency rule for lack of clarity in that, on its face, it is inaccurate with respect to the section of the Occupational Therapy Practice Act being implemented.

Agency Response: Failure to Respond.

Land Surveyors Act (68 Ill. Adm. Code 270.10 and 270.20)

Emergency Rule Published in Illinois Register, April 20, 1984 (8 Ill. Reg. 5365), effective April 12, 1984 for a maximum of 150 days.

This Joint Committee action from the meeting of May 15, 1984 was published in the Illinois Register, June 1, 1984 (8 Ill. Reg. 7711).

Objection to Emergency Rule: Joint Committee objected to this emergency amendment of the Department of Registration and Education's rules concerning the Land Surveyors Act because there is insufficient reason to believe that this rulemaking should be filed upon fewer days notice than is required by Section 5.01 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1981, ch. 127, par. 1005.01) and because any "emergency" that may exist was the result of the Department's failure to file proposed rules in a timely manner.

Agency Response: Failure to Respond.

Medical Practice Act (68 Ill. Adm. Code 280.105)

Emergency Rule Published in Illinois Register, April 27, 1984 (8 Ill. Reg. 5711), effective April 16, 1984 for a maximum of 150 days.

This Joint Committee action from the meeting of May 15, 1984 was published in the Illinois Register, June 1, 1984 (8 Ill. Reg. 7715)

Objection to Emergency Rule: The Joint Committee objected to the Department of Registration and Education's emergency amendment to Section 280.105(a) of the rules governing the Medical Practice Act because (1) the rule is inaccurate with respect to the policy which it purports to implement and (2) there is insufficient reason to believe that this rulemaking should be filed upon fewer days notice than is required by Section 5.01 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par. 1005.01).

Agency Response: Withdrawal (emergency repeal), June 1, 1984 (8 Ill. Reg. 7923).

Private Detective and Private Security Act (68 Ill. Adm. Code 240)

Emergency Rule Published in Illinois Register, January 20, 1984 (8 Ill. Reg. 903), effective January 6, 1984 for a maximum of 150 days.

This Joint Committee action from the meeting of March 13, 1984 was published in the Illinois Register, March 23, 1984 (8 Ill. Reg. 3850).

Objection to Emergency Rule: The Joint Committee objected to Sections 240.50 of the Department of Registration and Education's emergency rulemaking entitled "Private Detective and Private Security Act" on the basis that the Department lacks the statutory authority to impose certain fees for licensure

pursuant to Section 6 of the Private Detective and Private Security Act of 1983.

Agency Response: Failure to Respond.

SECRETARY OF STATE

Regulations Under the Illinois Securities Law of 1953 (14 Ill. Adm. Code 130)

Emergency Rule Published in Illinois Register, August 3, 1984 (8 Ill. Reg. 13889), effective July 20, 1984 for a maximum of 150 days.

This Joint Committee action from the meeting of September 20, 1984 was published in the Illinois Register, October 12, 1984 (8 Ill. Reg. 20209).

Objection to Emergency Rule: The Joint Committee objected to the Secretary of State's August 3, 1984 emergency amendments to 14 Ill. Adm. Code 130, "Regulations under the Illinois Securities Law of 1953" because no emergency situation exists which requires the use of the emergency rulemaking procedures of Section 5.02 of the Illinois Administrative Procedure Act.

Agency Response: Failure to Respond.

1984 OBJECTION AND RECOMMENDATIONS
TO PEREMPTORY RULES

CHILDREN AND FAMILY SERVICES, DEPARTMENT OF

Services Delivered by the Department (89 Ill. Adm. Code 302.130)

Peremptory Rule Published in Illinois Register, April 20, 1984 (8 Ill. Reg. 5373), effective April 12, 1984.

This Joint Committee action from the meeting of May 15, 1984 was published in the Illinois Register, June 1, 1984 (8 Ill. Reg. 7688).

Objection to Peremptory Rule: The Joint Committee objected to the Department of Children and Family Services' use of the peremptory rulemaking procedures for violation of Section 5.03 of the Illinois Administrative Procedure Act in that the Department exercised discretion as to the contents of the methods and procedures adopted by this rulemaking.

Agency Response: Failure to Respond.

PUBLIC AID, DEPARTMENT OF

Aid to Families with Dependent Children (AFDC) - Compliance with Deficit Reduction Act of 1984 (89 Ill. Adm. Code 112)

Peremptory Rule Published in Illinois Register, September 20, 1984 (8 Ill. Reg. 18127), effective October 1, 1984.

This Joint Committee action from the meeting of December 11, 1984 was published in the Illinois Register, December 21, 1984 (8 Ill. Reg. 24762).

Objection to Peremptory Rule: The Joint Committee objected to Section 112.130(h) of the rules of the Department because, contrary to the provisions of Section 402(a)(18) of the Social Security Act and Section 4-1.6 of the Public Aid Code, that rule disregards the earned income of part-time students which is not derived from a program carried out under the Jobs Training Partnership Act from comparison to 185 percent of the State's standard of need for the student's assistance unit.

Agency Response: Failure to Respond.

Medical Payment (89 Ill. Adm. Code 140)

Peremptory Rule Published in Illinois Register, November 14, 1983 (7 Ill. Reg. 15047), effective October 31, 1983.

This Joint Committee action from the meeting of February 23, 1984 was published in the Illinois Register, March 9, 1984 (8 Ill. Reg. 3079).

Objection to Peremptory Rule: The Joint Committee objected to the Department of Public Aid's peremptory amendment to Section 140.4 "Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older" because the use of peremptory rulemaking to implement a consent decree violates Section 5.03 of the Illinois Administrative Procedure Act.

Agency Response: Failure to Respond.

Medical Payment (Inpatient Payment) (89 Ill. Adm. Code 140.364)

Peremptory Rule Published in Illinois Register, September 28, 1984 (8 Ill. Reg. 18151), effective September 19, 1984.

This Joint Committee action from the meeting of December 11, 1984 was published in the Illinois Register, December 21, 1984 (8 Ill. Reg. 24765).

Objection to Peremptory Rule: The Joint Committee objected to the peremptory amendment to Section 140.364(a) of the rules of the Department because, contrary to the provisions of Section 5.03 of the Illinois Administrative Procedure Act, this amendment was not required as a result of a court order which precluded the Department's exercise of discretion as to the content of the rule.

Agency Response: Refusal to Modify or Withdraw, February 1, 1985 (9 Ill. Reg. 1480).

PUBLIC HEALTH, DEPARTMENT OF

Problem Pregnancy Health Services and Care Projects (Rule 1.03 C)

Peremptory Rule Published in Illinois Register, March 2, 1984 (8 Ill. Reg. 2704), effective February 21, 1984.

This Joint Committee action from the meeting of April 10, 1984 was published in the Illinois Register, April 20, 1984 (8 Ill. Reg. 5402)

Objection to Peremptory Rule: The Joint Committee objected to the Department of Public Health's peremptory Rule 1.03 C, because this rulemaking does not meet the requirements for a peremptory rulemaking as stated in Section 5.03 of the Illinois Administrative Procedure Act in that the rulemaking was not required as a result of federal law or an order of a court.

Agency Response: Modification, June 29, 1984 (8 Ill. Reg. 9375).

1984 OBJECTIONS AND RECOMMENDATIONS
TO EXISTING RULES

CHILDREN AND FAMILY SERVICES, DEPARTMENT OF

Audits, Reviews and Investigations (89 Ill. Adm. Code 434)

This Joint Committee action from the meeting of April 10, 1984 was published in the Illinois Register, May 11, 1984 (8 Ill. Reg. 6854).

Objection to Existing Rule: The Joint Committee objected to the rule because it appears that Section 434.4(f) has been adopted by the Department in a manner not in conformity with the rulemaking requirements of the Illinois Administrative Procedure Act.

Agency Response: Failure to Respond.

EDUCATION, STATE BOARD OF

Fellowship, Traineeship, and Scholarship Program (23 Ill. Adm. Code 54)

Proposal Originally Published in Illinois Register, November 18, 1983 (7 Ill. Reg. 15228).

This Joint Committee action from the meeting of July 18, 1984 was published in the Illinois Register, August 3, 1984 (8 Ill. Reg. 13991).

Objection to Existing Rule: The Joint Committee objected to Sections 54.130(b) and 54.230(c) because they do not contain standards required by Section 4.02 of the Illinois Administrative Procedure Act to govern the State Board of Education's assessment of financial need of applicants in making grant awards.

Agency Response: Refusal to Modify or Withdraw, October 26, 1984 (8 Ill. Reg. 21321).

Fellowship, Traineeship and Scholarship Program (23 Ill. Adm. Code 54)

Proposal Originally Published in Illinois Register, November 18, 1983, 7 Ill. Reg. 15228.

This Joint Committee action from the meeting of November 8, 1984 was published in the Illinois Register, November 30, 1984 (8 Ill. Reg. 23347).

Objection to Existing Rules: The Joint Committee objected to Section 54.120 and 54.220 of the State Board of Education's rules governing the Fellowship, Traineeship and Scholarship Program because they incorporate by reference agency policy not contained in rules.

Agency Response: Failure to Respond.

GUARDIANSHIP AND ADVOCACY COMMISSION, ILLINOIS

Legal Advocacy Service (59 Ill. Adm. Code 350)

Proposal Originally Published in Illinois Register, February 24, 1984 (8 Ill. Reg. 2397)

This Joint Committee action from the meeting of October 18, 1984 was published in the Illinois Register, November 2, 1984 (8 Ill. Reg. 21774).

Objection to Existing Rules: The Joint Committee objected to the Guardianship and Advocacy Commission's existing rules located at 59 Ill. Adm. Code 350.130 because this section is vague in that it fails to fully identify the Commission's policy regarding when payments for legal services will be postponed, how long payments can be postponed and what law limits the amount of awards in OASDI/SSI cases.

Agency Response: Refusal (received November 2, 1984).

PUBLIC AID, DEPARTMENT OF

Medical Payment (Drug Manual) (89 Ill. Adm. Code 140.73) (Proposed as 89 Ill. Adm. Code 140.500)

Proposal Originally Published in Illinois Register, July 29, 1983 (7 Ill. Reg. 8624).

This Joint Committee action from the meeting of August 23, 1984 was published in the Illinois Register, September 7, 1984 (8 Ill. 16538).

Objection to Existing Rule: The Joint Committee objected to Section 140.73, Drug Manual Update (previously Section 140.500 and 140.72), of the Department of Public Aid's rules entitled "Medical Payment," because this section was filed for adoption without the complete text of the rule as amended, in violation of Section 6 of the Illinois Administrative Procedure Act.

Recommendation to Existing Rule: The Joint Committee recommended that the Department of Public Aid recodify its Drug Manual as a separate Part of Title 89 of the Illinois Administrative Code and organize the list of drugs according to therapeutic classifications with each classification being a separate section.

Agency Response to Objection: Modification, October 19, 1984 (8 Ill. Reg. 20714) and October 26, 1984 (8 Ill. Reg. 21322). Notice of Failure to Remedy: November 30, 1984 (8 Ill. Reg. 23349).

Agency Response to Recommendation: Modification, October 19, 1984 (8 Ill. Reg. 20714) and October 26, 1984 (8 Ill. Reg. 21322).

Medical Payment (Drug Manual) (89 Ill. Adm. Code 140.73) (Proposed as 89 Ill. Adm. Code 140.72)

Proposal Originally Published in Illinois Register, December 30, 1983 (7 Ill. Reg. 17262).

This Joint Committee action from the meeting of August 23, 1984 was published in the Illinois Register, September 7, 1984 (8 Ill. Reg. 16536).

Objection to Existing Rule: The Joint Committee objected to Section 140.73, Drug Manual Update (previously Section 140.500 and 140.72) of the Department of Public Aid's rules entitled "Medical Payment," because this section was filed for adoption without the complete text of the rule as amended, in violation of Section 6 of the Illinois Administrative Procedure Act.

Recommendation to Existing Rule: The Joint Committee recommended that the Department of Public Aid recodify its Drug Manual as a separate Part of Title 39 of the Illinois Administrative Code and organize the list of drugs according to therapeutic classifications with each classification being a separate section.

Agency Response to Objection: Modification, October 19, 1984 (8 Ill. Reg. 20714). Notice of Failure to Remedy, November 30, 1984 (8 Ill. Reg. 23349).

Medical Payments- Point Count Guidelines (89 Ill. Adm. Code 140.860, 140.885)

Proposal Originally Published in Illinois Register, May 13, 1983 (7 Ill. Reg. 6030).

This Joint Committee action from the meeting of February 23, 1984 was published in the Illinois Register, March 9, 1984 (8 Ill. Reg. 3110).

Objection to Existing Rule: The Joint Committee objected to Sections 140.860(h), 140.860(i), and 140.885 of the Department of Public Aid's rules because modifications were made to these sections after the commencement of second notice in violation of Section 5.01(b) of the Illinois Administrative Procedure Act.

Agency Response: Modification, June 8, 1984 (8 Ill. Reg. 8250).

RACING BOARD, ILLINOIS

Appeals and Enforcement Proceedings (11 Ill. Adm. Code 204.60(b))

This Joint Committee action regarding the Five Year Review of the Racing Board's existing rules from the meeting of July 18, 1984 was published in the August 10, 1984 Illinois Register (8 Ill. Reg. 14726).

Recommendation to Existing Rule: The Joint Committee recommended that the Illinois Racing Board initiate rulemaking to modify Section 204.60(b) of the Board's rules to reflect its actual policies in relation to who may appear before the Board in a representative capacity.

Agency Response: Agreement to Initiate Rulemaking, August 10, 1984 (8 Ill. Reg. 14726).

Concessionaire Rules (11 Ill. Adm. Code 402.150)

This Joint Committee action regarding the Five Year Review of the Racing Board's existing rules from the meeting of July 18, 1984 was published in the August 10, 1984 Illinois Register (8 Ill. Reg. 14727).

Objection to Existing Rule: The Joint Committee objected to Section 402.150 (former rule B2.15) because the rule fails to include standards and criteria used by the Board in making discretionary determinations.

Agency Response: Agreement to Initiate Rulemaking (response received October 5, 1984).

Race Track Operators and Their Duties (11 Ill. Adm. Code 1305)

This Joint Committee action regarding the Five Year Review of the Racing Board's existing rules from the meeting of July 18, 1984 was published in the August 10, 1984 Illinois Register (8 Ill. Reg. 14730).

Objection to Existing Rule: The Joint Committee objected to Section 1305.170 (former rule 5.17) because this rule, which requires operators to furnish, free of charge, a truck and crew for the purpose of loading and hauling Board equipment, exceeds the statutory authority granted to the Board in the Illinois Horse Racing Act.

Agency Response: Agreement to Modify (response received October 5, 1984).

Regulations for Meetings (11 Ill. Adm. Code 1424)

This Joint Committee action regarding the Five Year Review of the Racing Board's existing rules from the meeting of July 18, 1984 was published in the August 10, 1984 Illinois Register (8 Ill. Reg. 14730).

Objection to Existing Rule: The Joint Committee objected to Section 1424.25 (former rule 320A) because this rule, which requires operators to furnish, free of charge, a truck and crew for the purpose of loading and hauling Board equipment, exceeds the statutory authority granted to the Board in the Illinois Horse Racing Act.

Agency Response: Agreement to Modify (response received October 5, 1984).

Quarter Horse Racing (11 Ill. Adm. Code 1439.30)

This Joint Committee action regarding the Five Year Review of the Racing Board's existing rules from the meeting of July 18, 1984 was published in the August 10, 1984 Illinois Register (8 Ill. Reg. 14729).

Objection to Existing Rule: The Joint Committee objected to Section 1439.30 (former rule 478) because the Board has not met the statutory requirement mandated by Section 6.02 of the Illinois Administrative Procedure Act that materials must be incorporated by reference by location and date and that the rule does not contain any later amendments or editions.

Agency Response: Refusal to Modify or Withdraw, October 19, 1984 (8 Ill. Reg. 20715).

1984 RECOMMENDATIONS RESULTING FROM COMPLAINT REVIEW

REHABILITATION SERVICES, DEPARTMENT OF

This Joint Committee action from the meeting of July 18, 1984 was published in the August 3, 1984 Illinois Register (8 Ill. Reg. 13993).

Recommendation: The Joint Committee suggested that the Department of Rehabilitation Services commence rulemaking procedures pursuant to Section 5.01 of the Illinois Administrative Procedure Act to adopt as rules the policies which the Department uses in making disability determinations.

Agency Response: Agreement (response received August 8, 1984).

This Joint Committee action from the meeting of November 8, 1984 was published in the Illinois Register, November 30, 1984 (8 Ill. Reg. 23332).

Recommendation 1: The Joint Committee recommended to the Department of Rehabilitation Services that it adopt as rules (as defined in Section 3.09 of the Illinois Administrative Procedure Act) the Department's policies concerning the procedures used in the procurement, development and evaluation of disability evidence which are found in the Program Operations Manual System (POMS)(US. Department of Health and Human Services, Social Security Administration) (POMS DI 00401.001 - DI 00401.173, DI 00401.201 - DI 00401.210, DI 00401.250 - DI 00401.255, DI 00401.260, DI 00401.275, DI 00401.285, DI 00401.290 - DI 00401.400, DI 00401.401 - DI 00401.795, DI 00401.810 - DI 00401.840, DI 00401.848, DI 00401.852, DI 00401.860, DI 00401.875, DI 00401.885, DI 00401.945, DI 00401.970).

Recommendation 2: The Joint Committee recommended to the Department of Rehabilitation Services that it adopt as rules the Department's policies concerning initial disability determinations, reconsideration determinations and vocational rehabilitation referrals as found in POMS. (POMS DI 00501.001 - DI 00501.015, DI 00501.160, DI 00501.290, DI 00501.315, DI 00501.400 - DI 00501.417, DI 00501.430 - DI 00501.440, DI 00501.455, DI 00501.460, DI 00501.500 - DI 00501.530, DI 00501.635, DI 00501.900 - DI 00501.910).

Recommendation 3: The Joint Committee recommended to the Department of Rehabilitation Services that it adopt as rules the Department's policies concerning the claimants' due process rights during the cessation of disability benefits (POMS DI 00505.200).

Recommendation 4: The Joint Committee recommended to the Department of Rehabilitation Services that it adopt as rules the Department's policies concerning the purchasing and contracting out of medical and other services needed to make disability determinations (POMS DI 00842.400, DI 00845.400, DI 00848.000 - DI 00848.400).

Recommendation 5: The Joint Committee recommended to the Department of Rehabilitation Services that it adopt as rules the Department's procedures by which it notifies claimants of initial disability determinations, reconsideration

disability determinations, and continuing disability continuances and cessations (POMS DI 01000.000 - DI 01005.100).

Recommendation 6: The Joint Committee recommended to the Department of Rehabilitation Services that it adopt as rules the Department's policies concerning the listing of impairments used in making disability determinations, and procedures for determining disability and blindness (POMS DI 9300 - DI 9600).

Recommendation 7: The Joint Committee recommended to the Department of Rehabilitation Services that it monitor and review the Circulars and Transmittals received from the Social Security Administration for changes in policy and procedure in making disability determinations, and if such a change is required, that the Department amend its rules pursuant to the amendatory rulemaking provisions of the Illinois Administrative Procedure Act to reflect such change.

Recommendation 8: The Joint Committee recommended to the Department of Rehabilitation Services that it adopt as rules the Department's policies concerning the implementation of the Social Security Administration's current adjudicative policies as prescribed in the Social Security Rulings - Disability Manual.

Recommendation 9: The Joint Committee recommended to the Department of Rehabilitation Services that it adopt as rules the policies concerning the ordering of testing from attending physicians as found in the Department's Procedure Manual. (Parts 603.2 and 603.3).

Recommendation 10: The Joint Committee recommended to the Department of Rehabilitation Services that it adopt as rules the policies concerning the authorization of payment for application and consultant travel expenses as found in the Department's Procedure Manual Parts 603.4 and 603.5.

Recommendation 11: The Joint Committee recommended to the Department of Rehabilitation Services that it adopt as rules the policies concerning the selection of medical consultants who do examinations and tests as part of the disability determinations process as found in the Department's Procedure Manual (Part 603.11).

Recommendation 12: The Joint Committee recommended to the Department of Rehabilitation Services that it adopt as rules the policies concerning the setting up of consultative examinations and the claimants' rights and responsibilities in the process when it is determined that the applicant must be examined by a medical consultant as part of the medical disability determinations process as found in the Department's Procedure Manual (Parts 603.6-603.10 and 603.12-603.14).

Recommendation 13: The Joint Committee recommended to the Department of Rehabilitation Services that it adopt as rules the policies concerning the medical fees which it will pay when administering the disability insurance and supplemental security income programs as found in the Department's Reference Manual - Fee Schedules.

Recommendation 14: The Joint Committee recommended to the Department of Rehabilitation Services that it adopt as rules the revised policies concerning the order of preference for consultant types as found in the Department's Reference Manual - Consultant Types.

Agency Response: Agreement (response received January 7, 1985).

TRANSPORTATION, DEPARTMENT OF

Recommendation for Rulemaking - Rules for Construction in Rivers, Lakes, and Streams (existing guidelines)

This Joint Committee action from the meeting of July 18, 1984 was published in the August 3, 1984 Illinois Register (8 Ill. Reg. 13995).

Recommendation 1 and Recommendation 2: Section 3.09 of the IAPA defines "rule" as "each agency statement of general applicability that implements, applies, interprets, or prescribes law or policy. . . ." A review of the Department's "Rules for Construction in Rivers, Lakes, and Streams" revealed that these rules prescribe policies concerning the permit application and issuance processes, permit conditions, hearing procedures, and specific requirements for various types of construction in waterways. It was therefore recommended that the Joint Committee recommend that the Department of Transportation, Division of Water Resources commence proceedings to adopt "Rules for Construction in Rivers, Lakes, and Streams." It was recommended that the Department discontinue enforcement of these draft rules until they are properly promulgated.

Agency Response: Agreement (response received October 24, 1984).

SECTION FOUR

LEGISLATIVE ACTIVITY

Each year the Joint Committee presents its legislative agenda to the General Assembly for its consideration. In addition to its other oversight functions, the Committee develops and introduces its own legislation as well as suggesting legislation to agencies and standing committees of the General Assembly. These bills are the result of problems with specific rules or policies encountered by the Committee, which it has determined will best be remedied through legislation.

Also included in the Joint Committee's legislative package are proposed amendments to the Illinois Administrative Procedure Act. These proposals are designed to further clarify and define the rulemaking process. The legislative activities of the Joint Committee enhance the oversight process by including, not only its members, but those of the full body of the General Assembly.

Bills Developed for Consideration During 1985

The Joint Committee's agenda for 1985 contains 54 proposed pieces of legislation. Each bill is the result of action taken by the Committee during the last calendar year. Included in this package are proposed amendments to the Illinois Administrative Procedure Act. The proposed bills for 1985 have been numbered and divided into four general categories:

- (1) IAPA bills - Bills amending the Illinois Administrative Procedure Act by further defining and clarifying the rulemaking process. (bills #1-#5)
- (2) Legislative concepts expected to be supported by agencies - Bills which the Joint Committee anticipates will have agency support. These bills will be referred to the appropriate standing committee. As was the case in 1984, it is anticipated that these bills will be included in an omnibus Joint Committee bill. (bills #6-#24)
- (3) Mandated requirements - Bills requiring agencies to adopt rules or standards. It is anticipated that these bills will be included in an omnibus Joint Committee bill. (bills #25-#42)
- (4) Other substantive bills - Bills having Joint Committee support, but to which the Committee anticipates agency opposition. These bills will be referred to the appropriate standing committees. (bills #43-#54)

IAPA BILLS

Bill 1

Amends the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par. 1001 et seq.) to allow the Joint Committee on Administrative Rules to determine what standards or guidelines are publicly available and what organizations and associations are nationally recognized for purposes of incorporation by reference in agency rules. This amendment will allow agencies to incorporate by reference standards or guidelines of a United States government agency. (see page 219)

Bill 2

Amends Section 2 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par. 1002) to allow the Department of Central Management Services to amend or repeal, through the peremptory rulemaking procedures of the Illinois Administrative Procedure Act, pay rates which were the direct result of a collective bargaining agreement. (see page 227)

Bill 3

Amends Section 5.03 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par. 1005.03) to preclude the use of the peremptory rulemaking procedure to implement consent decrees or other court orders adopting settlements negotiated by the agency. (see page 230)

Bill 4

Amends the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par. 1007.04) to provide that agencies shall submit a copy of all public comment received during the rulemaking process to the Joint Committee upon request. (see page 233)

Bill 5

Amends Section 28 of the Environmental Protection Act (Ill. Rev. Stat. 1983, ch. 111½, par. 1028) resolving its conflict with the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par. 1004.02) by allowing the Pollution Control Board to substantively amend its rules in response to an objection or suggestion of the Joint Committee on Administrative Rules without holding an additional public hearing or allowing an opportunity of public notice or comment on the recommended changes. (see page 236)

Legislative Concepts Expected to be Supported by Agencies

Bill 6

Amends "An Act relating to the planning, acquisition and development of outdoor recreation resources and facilities, and authorizing the participation by the State of Illinois its political subdivisions and qualified participants in programs of Federal assistance relating thereto" (Ill. Rev. Stat. 1983, ch. 105, par. 531 et seq.) by creating a new section which authorizes the Department of Conservation to adopt rules in order to implement this Act.

Bill 7

Amends Section 6 of "An Act in relation to State Forests, operation of forest nurseries, and providing penalties in connection therewith" (Ill. Rev. Stat. 1983, ch. 96½, par. 5906) to provide authority to the Department of Conservation to sell trees and shrubs for Arbor Day and other commemorative plantings to the general public.

Bill 8

Amends Section 9(a) of the Timber Buyers Licensing Act (Ill. Rev. Stat. 1983, ch.111, pars. 701 et seq.) to provide the Department of Conservation with the specific authority to provide an arbitration program when the value of timber utilized is in dispute.

Bill 9

Amends Sections 4-6.2(a)(5), 5-16.2(a)(5), and 6-50.2(a)(5) of the Illinois Election Code (Ill. Rev. Stat. 1983, ch. 46, pars. 4-6.2, 5-16.2, 6-50.2) to clarify that the Board of Elections shall determine by rule what organizations qualify as bonafide State civic organizations under the Election Code.

Bill 10

Amends Section 3 of the Financial Assistance Act For Nonpublic Institutions of Higher Learning (Ill. Rev. Stat. 1983, ch. 144, par. 1333) to require that, as a condition of eligibility for grants awarded under the Act, a nonpublic institution of higher learning must submit to an external audit of its enrollment records and nonsectarian use of funds.

Bill 11

Amends Section 5(d) of the Medical Practice Act (Ill. Rev. Stat. 1983, ch. 111, par. 4411) to repeal the provisions concerning the Board of Higher Education's responsibility to adopt guidelines for the purpose of funding supervised clinical training, because this paragraph is obsolete.

Bill 12

Amends Section 466(1) of the Insurance Code (Ill. Rev. Stat. 1983, ch. 73, par. 1065.13(1)). Provides that the Director of the Department of Insurance shall approve statistical plans required by Section 466(1), rather than promulgate such plans. Provides that the Department shall not require, by rule, that an insurer record or report loss experience according to a statistical plan which differs from that used in the insurer's business. Additionally, the bill provides that such plans need not be adopted by rule, but shall be made available for public inspection.

Bill 13

Amends the Child Labor Law (Ill. Rev. Stat. 1983, ch. 48, par. 31.8) by providing authority to the Department of Labor to regulate reasonable conditions of employment for minors employed as models or performers on radio or television.

Bill 14

Amends Section 5 of the Hospital Licensing Act (Ill. Rev. Stat. 1983, ch. 111½, pars. 6105 and 6109) to delete the statutory requirement that the Department of Public Health structure hospice licensing standards so that they take into account the size of the hospice program.

Bill 15

Amends Section 3 of An Act relating to the prevention of developmental disability (Ill. Rev. Stat. 1983, ch. 111½, par. 2103) to require the Department of Public Health to develop rules and regulations setting forth the requirements and standards by which it requires perinatal care facilities to submit plans or enter into agreements.

Bill 16

Amends Section 25 of "An Act in relation to State finance" (Ill. Rev. Stat. 1983, ch. 127, par. 161) to authorize the Department of Public Health to promulgate rules to carry out its duty under the Act to make payments for certain types of medical care without regard to the fiscal year in which the medical services were provided.

Bill 17

Amends Sections 3 and 13 of the Real Estate License Act of 1983 (Ill. Rev. Stat. 1983, ch. 111, par. 5803, 5813) to provide that salesperson(s) may hold up to 49% ownership interest in a partnership or corporation licensed under this Act. Also allows brokers to control more than one real estate office during the same time period provided the broker is operating the second office under temporary permit from the Department of Registration and Education.

Bill 18

Amends Section 14 of the Certified Shorthand Reporters Act of 1984 (Ill. Rev. Stat. 1983, ch. 111, par. 6214) to authorize the Department of Registration and Education to restore certificates issued under the Act without the filing of proof of fitness if such certificate has been expired for less than 5 years.

Bill 19

Amends Section 15 of the Educational Labor Relations Act (Ill. Rev. Stat. 1983 Supp., ch. 48, par. 1715) to provide that employees subject to the Act may file charges of unfair labor practices along with employee organizations and employers with the Illinois Educational Labor Relations Board.

Bill 20

Amends The Liquor Control Act of 1934 (Ill. Rev. Stat. 1983, ch. 43, par. 115) to provide that a railroad license shall permit the licensee to import and store alcoholic liquors in this State from any point in the United States as long as the liquor is sold or dispensed on a club, buffet, lounge or dining car operated on a railway in this State.

Bill 21

Amends Section 36a of the Horse Racing Act of 1975 (Ill. Rev. Stat. 1983, ch. 8, par. 37-36a) to allow the Illinois Racing Board to allow documentation other than a certificate of examination from the State veterinarian to show that a horse is a bleeder and to allow bleeder medication in dosages of less than 250 mg. to be administered.

Bill 22

Amends Section 16(e) of the Horse Racing Act of 1975 (Ill. Rev. Stat. 1983, ch. 8, par. 37-16(e)) to authorize the Illinois Racing Board to require appellants to bear the cost of the production of hearing transcripts. Corrects an error by changing the word "or" to "of."

Bill 23

Repeals Section 22 of the Illinois Horse Racing Act of 1975 (Ill. Rev. Stat. 1983, ch. 8, par. 37-22) which requires that 90% of all of the Board's employees, except for certain occupations specified in the statute, be residents of the State for at least 2 years prior to their employment.

Bill 24

Amends Section 2 of "An Act to regulate the storage, transportation, sale and use of gasoline and volatile oils" (Ill. Rev. Stat. 1983, ch. 127½, par. 154) to authorize the State Fire Marshal to promulgate rules permitting the operation of self-service stations in Illinois.

Mandated Requirements

Bill 25

Amends Section 3 of "An Act in relation to victims of violence and abuse" (Ill. Rev. Stat. 1983, ch. 23, pars. 6304 and 6503) to specifically authorize the Department on Aging to require the paraprofessionals, such as homemakers and home health aides, report suspected cases of elder abuse to the Department. Requires the Department on Aging to establish rules setting forth the criteria by which grantees to operate programs under the Act are selected.

Bill 26

Amends Section 5 of "An Act creating the Department of Children and Family Services" (Ill. Rev. Stat. 1983, ch. 23, par. 5005) to require that the Department establish as rules and regulations all of its policies concerning financial assistance paid to persons adopting hard-to-place children.

Bill 27

Amends Section 5 of "An Act Creating the Department of Children and Family Services" (Ill. Rev. Stat. 1983, ch. 23, par. 5005) to require the Department of Children and Family Services to adopt rules which delineate its policy of giving priority for funded day care assistance to low income families.

Bill 28

Amends Section 5a of "An Act creating the Department of Children and Family Services" (Ill. Rev. Stat. 1983, ch. 23, par. 5005a) to require that the Department develop rules and regulations concerning the negotiation and renewal of contracts with service providers, including penalties for the service providers' failure to meet the obligations of the contracts.

Bill 29

Amends Section 14A-8 of the School Code of 1961 (Ill. Rev. Stat. 1983, ch. 122, par. 14A-8) to require that the State Board of Education prescribe specific rules and regulations concerning the eligibility criteria, including the criteria used to determine financial need, for fellowship and traineeship grants awarded under this section. Also requires that the State Board of Education establish rules and regulations governing the conditions under which it will require grantees to refund all or part of the grant monies awarded.

Bill 30

Amends Section 14-8.02(i) of the School Code of 1961 (Ill. Rev. Stat. 1983, ch. 122, par. 14-8.02) to require that rules and regulations be established to delineate the standards to be used when hearing officers make decisions regarding the extension of time prior to review hearings on a child's need for special education.

Bill 31

Amends Section 2-3.25 of The School Code of 1961 (Ill. Rev. Stat. 1983, ch. 122, par. 2-3.25) to require that the State Board of Education develop specific standards for the recognition of teaching education institutions with regard to education in working with culturally distinctive students if the Board requires this component in the teachers' education programs.

Bill 32

Amends Section 6 of the Toxic Substances Disclosure to Employees Act (Ill. Rev. Stat. 1983, ch. 48, par. 1406) to require the Department of Labor to promulgate rules stating the standards it will use in determining whether a laboratory is under the direct supervision of a technically qualified individual and thus exempt under the Act.

Bill 33

Amends Section 4-1.10 of the Public Aid Code (Ill. Rev. Stat. 1983, ch. 23, par. 4-1.10) to require the Department of Public Aid to include within its rules standards used to determine when registrants shall be sanctioned under the Work Demonstration Program.

Bill 34

Amends Sections 4 and 5 of the Baccalaureate Assistance Law for Registered Nurses (Ill. Rev. Stat. 1983, ch. 144, pars. 1404 and 1405) to require the Department of Public Health to initiate rulemaking to set forth the procedure for determining to whom loans will be awarded under the Act using the criteria already provided in Section 4. Authorizes the Department to require a loan recipient to pay the costs of suit, including attorney's fees, if the Department prevails in an action for damages under the loan contract. Requires the Department to develop standards used to determine whether a loan applicant shows reasonable promise of completing a baccalaureate program in professional nursing.

Bill 35

Amends Section 11b of the Medical Practice Act (Ill. Rev. Stat. 1983, ch. 111, par. 4422.1) to require the Department of Registration and Education to include within its rules the standards used by the Department to determine whether an applicant will be requested to appear for an oral interview before the Medical Practice Examining Committee, and the standards used by the Department in evaluating an application for renewal.

Bill 36

Amends Sections 4(b) and 11 of the Occupational Therapy Practice Act (Ill. Rev. Stat. 1983, ch. 111, par. 3704 and 3711) to require the Department of Registration and Education to specify fees for certification examinations by rule. Also prohibits the Department from delegating the responsibility of determining the standards for passage of certification examinations and requires the Department to place the standards within its rules which the

Department uses in determining whether to conduct oral interviews of applicants, and in determining what proof of an applicant's fitness is acceptable when the Department evaluates a request for restoration of a license.

Bill 37

Amends Section 108(c) of the Secretary of State Merit Employment Code (Ill. Rev. Stat. 1983, ch. 124, par. 100) to require the Secretary of State's Merit Commission to place within its rules the standards and criteria the Commission and the Commission's hearing officers use in making discretionary determinations during hearing procedures.

Bill 38

Amends Section 6-205(c) and 6-206(d) of the Illinois Vehicle Code (Supp. to Ill. Rev. Stat. 1983, ch. 95½, par. 6-205(c) and 6-206(d)) to require the Secretary of State to promulgate rules implementing the restricted driving permit program and to provide to the Secretary of State specific statutory authority for the issuance of probationary drivers licenses.

Bill 39

Amends Section 5(i) of the Guardianship and Advocacy Act (Ill. Rev. Stat. 1983, ch. 91½, par. 705) to provide that the Guardianship and Advocacy Commission determine the amount of the fee eligible persons or wards must pay for legal services on the person's or ward's income as affected by the needs of the person's or ward's dependents. Also requires the Commission to establish rules concerning hearings held in connection with the terminations of legal and guardianship services due to the person's or ward's failure to pay fees for services.

Bill 40

Amends Section 11 of the Guardianship and Advocacy Act (Ill. Rev. Stat. 1983, ch. 91½, par. 711) to provide that the Legal Advocacy Service shall make a good faith effort to obtain private counsel for eligible persons under the Act regardless of whether an eligible person has requested such service. Additionally, the bill requires that the Commission shall establish by rule the procedures and standards by which it will attempt to secure private counsel for eligible persons.

Bill 41

Amends Section 1 of "An Act prescribing the color and label for gasoline or benzol receptacles" (Ill. Rev. Stat. 1983, ch. 127½, par. 151) to provide that containers shall be labeled in accordance with the State Fire Marshal rules for such receptacles.

Bill 42

Amends the Illinois Public Accounting Act (Ill. Rev. Stat. 1983, ch. 111, par. 5500.01 et. seq.) to require that the University of Illinois adopt rules which set forth various standards used in grading and administering examinations.

Other Substantive Bills

Bill 43

Amends Section 20j-1(m) of the Revenue Act of 1939 (Ill. Rev. Stat. 1983, ch. 120, par. 501j-1(m)) to require that, in order to qualify for favorable tax treatment, rehabilitation projects on historic buildings may involve work on the interior and/or exterior of the residence and provide a benefit to the community.

Bill 44

Amends Section 21-7.1 of the School Code of 1961 (Ill. Rev. Stat. 1983, ch. 122, par. 21-7.1) to clarify that the State Superintendent of Education may not impose additional requirements for endorsements needed for individuals to receive administrative certificates beyond those stated in this section of the Code, and deletes a provision concerning endorsement as a chief school business official which is unnecessary because of the grandfathering clause contained in Section 10-22.23a of the Code.

Bill 45

Amends Section 7.1 of the Environmental Protection Act (Ill. Rev. Stat. 1963, ch. 111½, par. 1007.1) by voiding Subparts E and F of the rules of the Environmental Protection Agency entitled "Procedures for Determining and Protecting Confidential Information" (35 Ill. Adm. Code 161) and clarifying that the Pollution Control Board shall promulgate rules governing the protection of trade secrets and privileged information protected from disclosure under the Act.

Bill 46

Amends the Environmental Protection Act (Ill. Rev. Stat. 1983, ch. 111½, par. 1001 et seq.) to clarify the Environmental Protection Agency's lack of authority to prescribe the requirements for the monitoring and collection of data emissions of air contaminant discharges and for granting permission for operation during periods of excess emission and voids the agency's current rules entitled "Rules for Self-Monitoring and Reporting by Sources of Air Pollution" (35 Ill. Adm. Code 285) and "Rules Granting Permission to Operate During Periods of Excess Emissions" (35 Ill. Adm. Code 260).

Bill 47

Amends the Financial Institutions Code (Ill. Rev. Stat. 1983, ch. 17, par. 101 et seq.), the Illinois Banking Act (Ill. Rev. Stat. 1983, ch. 17, par. 301 et seq.) and the Illinois Savings and Loan Act (Ill. Rev. Stat. 1963, ch. 17, par. 3001 et seq.) to require the Department of Financial Institutions, Commissioner of Banks and Trusts and the Commissioner of Savings and Loans to undertake a collective study of the programs and functions relative to the depository institutions under their control, and make appropriate recommendations to the General Assembly and the Governor relative to the consolidation of functions to avoid overlapping regulatory jurisdictions and duplication of administrative effort and present a joint final report to the General Assembly for its consideration and evaluation of this matter.

Bill 48

Amends Section 11-4 of the Public Aid Code (Ill. Rev. Stat. 1983, ch. 23, par. 11-4) to require that the Department of Public Aid determine the eligibility of an applicant for all forms of public assistance except those for which the applicant has expressly declined to apply. Allows the Department to inform applicant of more than one eligibility decision in a single written notification.

Bill 49

Adds Section 5-5.11a of the Public Aid Code (Ill. Rev. Stat. 1983, ch. 23, new par. 5-5.11a) to provide that the Department's rules governing clinic and outpatient hospital services shall include the Department's maximum reimbursement payment levels for outpatient and clinic services, the payment rate for outpatient renal dialysis, and a list of surgical procedures which must be performed in a clinic or outpatient setting to be reimbursed by the Department. Provides that where the Department's reimbursement methodology for inpatient services includes an inpatient hospital utilization maximum modified from an earlier fiscal year, the Department shall include a description of the method of modification. Provides that rules contain an appeal procedure.

Bill 50

Amends Section 5-1.1 of the Public Aid Code (Ill. Rev. Stat. 1983 Supp., ch. 23, par. 5-1.1) to include a definition of "exceptional medical care." Adds Section 5-5.8(a) to the Public Aid Code (Ill. Rev. Stat. 1983, ch. 23, new par. 5-5.8(a)) which provides that the Department of Public Aid may negotiate individual rates of payment for exceptional medical care provided by skilled nursing facilities. Such payments are to be made separately from the annually determined rates of payment for ordinary skilled nursing care.

Bill 51

Amends Section 15-1501(a)(28) of the Illinois Income Tax Act (Ill. Rev. Stat. 1983, ch. 120, par. 15-1501) to clarify what business activities are considered in the "same general line of business" for the purpose of unitary taxation.

Bill 52

Amends Section 15-1501(a)(28) of the Illinois Income Tax Act (Ill. Rev. Stat. 1983, ch. 120, par. 15-1501) to require that the Illinois Department of Revenue treat net operating loss carryforward and carryback with the same formula as revenue to be consistent with the Unitary Tax Theory.

Bill 53

Amends Sections 1-195, 6-205, 6-206 and 6-700 of the Illinois Vehicle Code (Ill. Rev. Stat. 1983, ch. 95½, pars. 6-205, 6-206 and 6-700) to state that drivers licenses may be suspended or revoked by the Secretary of State for convictions of traffic related offenses which occur on military installations within Illinois.

Bill 54

Amends Section 1 of "An Act in relation to bonds of contractors entering into contracts for public construction" (Ill. Rev. Stat. 1983, ch. 29, pars. 15) to clarify that sureties may only be suspended after a hearing by the Department of Insurance.

34th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

BILL 1

SYNOPSIS: (Ch. 127, pars. 1005.01, 1005.03 and 1006.02)

Amends the Administrative Procedure Act. Provides that no rule of a State agency may incorporate by reference guidelines or standards of an agency of the United States or of nationally recognized organization, association or entity unless such incorporation by reference is approved in writing by the Joint Committee on Administrative Rules prior to the initial publication of the rule in the Illinois Register. Prohibits the incorporation by reference unless the agency or organization originally issuing the guidelines or standards makes copies of such guidelines or standards readily available to the public. Provides for a tolling of the running of the 30 day notice filing period applicable to a peremptory rule while the Joint Committee reviews any guidelines or standards incorporated by reference in such peremptory rule.

LRB8401547PLjWA

A BILL FOR

1 AN ACT to amend Sections 5.01, 5.03 and 6.02 of "The 56
2 Illinois Administrative Procedure Act", approved September 57
3 22, 1975, as amended. 58

4 Be it enacted by the People of the State of Illinois, 62
5 represented in the General Assembly:

6 Section 1. Sections 5.01, 5.03 and 6.02 of "The Illinois 64
7 Administrative Procedure Act", approved September 22, 1975, 65
8 as amended, are amended to read as follows:

(Ch. 127, par. 1005.01) 67

9 Sec. 5.01. General rulemaking.) In all rulemaking to 69
10 which Sections 5.02 and 5.03 do not apply, each agency shall: 70

11 (a) Give at least 45 days' notice of its intended action 72
12 to the general public. This first notice period shall 73
13 commence on the first day the notice appears in the Illinois 74
14 Register. The first notice shall include:

15 1. The text of the proposed rule, or the old and new 76
16 materials of a proposed amendment, or the text of the 77
17 provision to be repealed;

18 2. The specific statutory citation upon which the 79
19 proposed rule, the proposed amendment to a rule or the 80
20 proposed repeal of a rule is based and is authorized;

21 3. A complete description of the subjects and issues 82
22 involved;

23 4. For all proposed rules and proposed amendments to 84
24 rules, an initial regulatory flexibility analysis, which 85
25 shall contain a description of the types of small businesses 86
26 subject to the rule; a brief description of the proposed 87
27 reporting, bookkeeping, and other procedures required for
28 compliance with the rule; and a description of the types of 38
29 professional skills necessary for compliance; and 39

30 5. The time, place and manner in which interested 92
31 persons may present their views and comments concerning the
32 proposed rulemaking.

1 During the first notice period, the agency shall provide 94
2 all interested persons who submit a request to comment within 95
3 the first 14 days of the notice period reasonable opportunity 96
4 to submit data, views, arguments or comments, which may, in 97
5 the discretion of the agency, be submitted either orally or 98
6 in writing or both. The notice published in the Illinois
7 Register shall indicate the manner selected by the agency for 99
8 such submissions. The agency shall consider all submissions 100
9 received.
10 The agency shall hold a public hearing on the proposed 102
11 rulemaking, during the first notice period, in the following 103
12 cases: (1) the agency finds that a public hearing would 104
13 facilitate the submission of views and comments which might 105
14 not otherwise be submitted; (2) the agency receives a request 106
15 for a public hearing, within the first 14 days after 107
16 publication of the notice of proposed rulemaking in the
17 Illinois Register, from 25 interested persons, an association 108
18 representing at least 100 interested persons, the Governor, 109
19 the Joint Committee on Administrative Rules, or a unit of 110
20 local government which may be affected. At the public
21 hearing, the agency shall allow interested persons to present 111
22 views and comments on the proposed rulemaking. Such a public 112
23 hearing in response to a request for a hearing may not be 113
24 held less than 20 days after the publication of the notice of 114
25 proposed rulemaking in the Illinois Register, unless notice
26 of the public hearing is included in the notice of proposed 115
27 rulemaking. A public hearing on proposed rulemaking may not 116
28 be held less than 10 days before submission of the notice 117
29 required under paragraph (b) of this Section to the Joint 118
30 Committee on Administrative Rules. Each agency may prescribe
31 reasonable rules for the conduct of public hearings on 119
32 proposed rulemaking to prevent undue repetition at such 120
33 hearings. Such hearings must be open to the public and 121
34 recorded by stenographic or mechanical means. 122
35 (b) provide up to 45 days additional notice of the 124

1 proposed rulemaking to the Joint Committee on Administrative 125
2 Rules. The second notice period shall commence on the day 126
3 written notice is received by the Joint Committee, and shall 127
4 expire 45 days thereafter unless prior to that time the 128
5 agency shall have received a statement of objection from the 129
6 Joint Committee, or notification from the Joint Committee
7 that no objection will be issued. The written notice to the 130
8 Joint Committee shall include: (1) the text and location of 131
9 any changes made to the proposed rulemaking during the first 132
10 notice period; (2) for all proposed rules and proposed 133
11 amendments to rules, a final regulatory flexibility analysis,
12 which shall contain a summary of issues raised by small 134
13 businesses during the first notice period; and a description 135
14 of actions taken on any alternatives to the proposed rule 136
15 suggested by small businesses during the first notice period, 137
16 including reasons for rejecting any alternatives not
17 utilized; and, (3) if written request has been made by the 139
18 Joint Committee within 30 days after initial notice appears 140
19 in the Illinois Register pursuant to Paragraph (a) of this 141
20 Section, an analysis of the economic and budgetary effects of
21 the proposed rulemaking. After commencement of the second 143
22 notice period, no substantive change may be made to a
23 proposed rulemaking unless it is made in response to an 144
24 objection or suggestion of the Joint Committee. The agency 145
25 shall also send a copy of the final regulatory flexibility 146
26 analysis to each of the small businesses which have presented 147
27 views or comments on the proposed rulemaking during the first
28 notice period and to any interested person who requests a 148
29 copy during the first notice period. The agency may charge a 149
30 reasonable fee for providing such copies to cover postage and 150
31 handling costs.

32 (c) After the expiration of 45 days, after notification 151
33 from the Joint Committee that no objection will be issued, or 152
34 after response by the agency to a statement of objections 154
35 issued by the Joint Committee, whichever is applicable, the 155

1 agency shall file, pursuant to Section 6 of this Act, a 156
2 certified copy of each rule, modification, or repeal of any
3 rule adopted by it, which shall be published in the Illinois 157
4 Register. Each rule hereafter adopted under this Section is 158
5 effective upon filing, unless a later effective date is 159
6 required by statute or is specified in the rule.

7 (d) No rule or modification or repeal of any rule may be 161
8 adopted, or filed with the Secretary of State, more than one 162
9 year after the date the first notice period for the 163
10 rulemaking under paragraph (a) commenced. Any period during 164
11 which the rulemaking is prohibited from being filed under
12 Section 7.06a shall not be considered in calculating this 165
13 one-year time period. In addition, no rule or modification 166
14 which contains an incorporation by reference under subsection 167
15 (b) of Section 6.02 may be adopted or filed with the 168
16 Secretary of State unless the agency adopting or filing the
17 rule is in receipt of written approval from the Joint 170
18 Committee on Administrative Rules. This paragraph (d) applies 171
19 to any rule or modification or repeal of any rule which has 172
20 not been filed with the Secretary of State prior to the
21 effective date of this amendatory Act of 1981. 174

(Ch. 127, par. 1005.03) 175

22 Sec. 5.03. Peremptory rulemaking.) "Peremptory 178
23 rulemaking" means any rulemaking which is required as a 179
24 result of federal law, federal rules and regulations, or an 180
25 order of a court, under conditions which preclude compliance
26 with general rulemaking requirements imposed by Section 5.01 181
27 and which preclude the exercise of discretion by the agency 182
28 as to the content of the rule it is required to adopt. Where 183
29 any agency finds that peremptory rulemaking is necessary and 184
30 states in writing its reasons for that finding, the agency
31 may adopt peremptory rulemaking upon filing a notice of 185
32 rulemaking with the Secretary of State pursuant to Section 186
33 6.01 of this Act. Such notice shall be published in the 187
34 Illinois Register. A rule adopted under the peremptory

1 rulemaking provisions of this Section becomes effective 188
2 immediately upon filing with the Secretary of State and in 189
3 the agency's principal office, or at a date required or 190
4 authorized by the relevant federal law, federal rules and 191
5 regulations, or court order, as stated in the notice of 192
6 rulemaking. Notice of rulemaking under this Section shall be 193
7 published in the Illinois Register, and shall specifically
8 refer to the appropriate state or federal court order or 194
9 federal law, rules and regulations, and shall be in such form 195
10 as the Secretary of State may reasonably prescribe by rule. 196
11 The agency shall file the notice of peremptory rulemaking 197
12 within 30 days after a change in rules is required. If the 199
13 agency seeks to adopt a peremptory rule containing an
14 incorporation by reference under subsection (b) of Section 200
15 6.02 of this Act, the time period commencing the date the 202
16 Joint Committee on Administrative Rules receives the request 203
17 for approval of such incorporation by reference and ending
18 the date the agency receives the Joint Committee's response 204
19 shall not be considered in calculating the 30 day filing 205
20 period. No peremptory rule which contains an incorporation 206
21 by reference under subsection (b) of Section 6.02 may be 207
22 adopted or filed with the Secretary of State, unless the 208
23 agency adopting or filing the rule is in receipt of written
24 approval from the Joint Committee on Administrative Rules. 210
(Ch. 127, par. 1006.02) 212
25 Sec. 6.02. Incorporation By Reference. (a) An agency 214
26 may incorporate by reference, in its rules adopted in 215
27 accordance with Section 3 of this Act, rules and regulations 216
28 or rules of an agency of the United States or of a nationally 217
29 recognized organization or association without publishing the 218
30 incorporated material in full. The reference in the agency 219
31 rules must fully identify the incorporated matter by location 220
32 and date, and must state that the rule does not include any 221
33 later amendments or editions. The agency adopting the rule 222
34 shall maintain a copy of the referenced rules and regulations

1 ~~regulatory rule or standard~~ and shall make them available 224
2 to the public upon request for inspection and copying at no 225
3 more than cost. An agency may also at its discretion file a 226
4 copy of referenced rules and regulations ~~rules or standards~~
5 with the State Library. An agency may incorporate by 228
6 reference such matters in its rules only if the agency, 229
7 organization or association originally issuing the matter
8 makes copies readily available to the public. This Section 230
9 shall not apply to any agency internal manual. 231

10 (b) As provided by this subsection, an agency may 233
11 incorporate by reference in its rules adopted in accordance 235
12 with Sections 5.01 and 5.03 of this Act guidelines or
13 standards of an agency of the United States, or of a 236
14 nationally recognized organization, association or other 237
15 entity, without publishing the incorporated material in full, 238
16 provided that the incorporated material is readily available 239
17 to the public. The reference in the agency rules must fully 240
18 identify the incorporated matter by location and date, and
19 must state that the rule does not include any later 241
20 amendments or editions. An agency may incorporate by 242
21 reference such matters in its rules only if the agency of the 243
22 United States, organization, association or other entity
23 originally issuing the matter makes copies readily available 244
24 to the public. The agency adopting the rule shall maintain a 245
25 copy of the referenced guideline or standard and shall make 246
26 it available to the public upon request for inspection and 247
27 copying at no more than cost. An agency may also at its 248
28 discretion file a copy of referenced guidelines or standards
29 with the State Library. Use of the incorporation by 249
30 reference procedure under this subsection (b) must be 250
31 approved by the Joint Committee on Administrative Rules prior 251
32 to the initial publication of the rulemaking in the Illinois 252
33 Register. An agency seeking to adopt a rule containing 253
34 incorporation by reference under this subsection (b) shall 254
35 submit a written request to the Joint Committee on 255

1	<u>Administrative Rules. In determining whether to approve an</u>	255
2	<u>incorporation by reference, the Joint Committee shall use the</u>	256
3	<u>following standards: (1) whether or not the material sought</u>	257
4	<u>to be incorporated is readily available for public inspection</u>	258
5	<u>and, (2) whether such organization, association or entity is</u>	259
6	<u>nationally recognized. No rule which contains an</u>	260
7	<u>incorporation by reference pursuant to this subsection (b)</u>	
8	<u>may be accepted by the Secretary of State for publication,</u>	261
9	<u>unless the agency is in receipt of written approval from the</u>	262
10	<u>Joint Committee on Administrative Rules.</u>	263

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

BILL 2

SYNOPSIS: (Ch. 127, par. 1002)

Amends The Illinois Administrative Procedure Act. Provides that rules establishing pay rates pursuant to the Personnel Code shall be amended or repealed pursuant to the peremptory rule making process set forth in the Act within 30 days after it becomes necessary to do so due to a conflict between the rules and the terms of a collective bargaining agreement covering the compensation of an employee subject to the Personnel Code.

LRB8401269CttdA

A BILL FOR

1 AN ACT to amend Section 2 of "The Illinois Administrative 51
2 Procedure Act", approved September 22, 1975, as amended. 53

3 Be it enacted by the People of the State of Illinois, 57
4 represented in the General Assembly:

5 Section 1. Section 2 of "The Illinois Administrative 59
6 Procedure Act", approved September 22, 1975, as amended, is 60
7 amended to read as follows:

(Ch. 127, par. 1002) 62

8 Sec. 2. This Act applies to every agency as defined 64
9 herein. Beginning January 1, 1978 in case of conflict 65
10 between the provisions of this Act and the Act creating or 66
11 conferring power on an agency, this Act shall control. 67
12 However if an agency has existing procedures on July 1, 1977 68
13 specifically for contested cases or licensing those existing 69
14 provisions control, except that this exception respecting 70
15 contested cases and licensing does not apply if the Act 71
16 creating or conferring power on the agency adopts by express 72
17 reference the provision of this Act. Where the Act creating 73
18 or conferring power on an agency establishes administrative 74
19 procedures not covered by this Act, such procedures shall 74
20 remain in effect.

21 The provisions of this Act shall not apply to (1) 76
22 preliminary hearings, investigations or practices where no 77
23 final determinations affecting State funding are made by the 78
24 State Board of Education, (2) legal opinions issued under 79
25 Section 1-1.7 of The School Code, (3) as to State colleges 80
26 and universities, their disciplinary and grievance 81
27 proceedings, academic irregularity and capricious grading 82
28 proceedings, and admission standards and procedures, and (4) 83
29 the class specifications for positions and individual 84
30 position descriptions prepared and maintained pursuant to the 85
31 "Personnel Code"; however such specifications shall be made 86
32 reasonably available to the public for inspection and

1	copying. Neither shall the provisions of this Act apply to	87
2	hearings under Section 20 of the "Uniform Disposition of	88
3	Unclaimed Property Act".	
4	<u>Pay rates established pursuant to Section 3a of the</u>	90
5	<u>Personnel Code shall be amended or repealed pursuant to the</u>	91
6	<u>process set forth in Section 5.03 within 30 days after it</u>	92
7	<u>becomes necessary to do so due to a conflict between the</u>	93
8	<u>rates and the terms of a collective bargaining agreement</u>	94
9	<u>covering the compensation of an employee subject to that</u>	95
10	<u>Code.</u>	96

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

BILL 3

SYNOPSIS: (Ch. 127, par. 1005.03)

Amends the Administrative Procedure Act by providing that peremptory rulemaking shall not be used to implement consent orders or other court orders adopting settlements negotiated by an agency, as defined in the Act.

LRB8400827BDpf

A BILL FOR

1 AN ACT to amend Section 5.03 of "The Illinois 52
2 Administrative Procedure Act", approved September 22, 1975, 53
3 as amended. 54

4 Be it enacted by the People of the State of Illinois, 58
5 represented in the General Assembly:

6 Section 1. Section 5.03 of "The Illinois Administrative 60
7 Procedure Act", approved September 22, 1975, as amended, is 61
8 amended to read as follows:

 (Ch. 127, par. 1005.03) 63

9 Sec. 5.03. Peremptory rulemaking.) "Peremptory 65
10 rulemaking" means any rulemaking which is required as a 66
11 result of federal law, federal rules and regulations, or an 67
12 order of a court, under conditions which preclude compliance 68
13 with general rulemaking requirements imposed by Section 5.01 68
14 and which preclude the exercise of discretion by the agency 69
15 as to the content of the rule it is required to adopt. 70
16 Peremptory rulemaking shall not be used to implement consent
17 orders or other court orders adopting settlements negotiated 71
18 by the agency. Where any agency finds that peremptory 72
19 rulemaking is necessary and states in writing its reasons for 73
20 that finding, the agency may adopt peremptory rulemaking upon 74
21 filing a notice of rulemaking with the Secretary of State 75
22 pursuant to Section 6.01 of this Act. Such notice shall be 76
23 published in the Illinois Register. A rule adopted under the 77
24 peremptory rulemaking provisions of this Section becomes 77
25 effective immediately upon filing with the Secretary of State 78
26 and in the agency's principal office, or at a date required 79
27 or authorized by the relevant federal law, federal rules and 80
28 regulations, or court order, as stated in the notice of 91
29 rulemaking. Notice of rulemaking under this Section shall be 82
30 published in the Illinois Register, and shall specifically 82
31 refer to the appropriate state or federal court order or 83
32 federal law, rules and regulations, and shall be in such form 84

1	as the Secretary of State may reasonably prescribe by rule.	85
2	The agency shall file the notice of peremptory rulemaking	86
3	within 30 days after a change in rules is required.	88

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

BILL 4

SYNOPSIS: (Ch. 127, par. 1007.04)

Amends the Administrative Procedure Act.
Authorizes the Joint Committee on Administrative Rules to
require agencies to submit copies of public comment received
during rulemaking.

LR88402135JMcS

A BILL FOR

1 AN ACT to amend Section 7.04 of "The Illinois 47
2 Administrative Procedure Act", approved September 22, 1975, 48
3 as amended.

4 Be it enacted by the People of the State of Illinois, 52
5 represented in the General Assembly:

6 Section 1. Section 7.04 of "The Illinois Administrative 54
7 Procedure Act", approved September 22, 1975, as amended, is 55
8 amended to read as follows:

(Ch. 127, par. 1007.04) 57

9 Sec. 7.04. The Joint Committee shall have the following 59
10 powers under this Act: 60

11 1. The function of the Joint Committee shall be the 62
12 promotion of adequate and proper rules by agencies and an 63
13 understanding on the part of the public respecting such 64
14 rules. Such function shall be advisory only, except as 65
15 provided in Sections 7.06a and 7.07a.

16 2. The Joint Committee may undertake studies and 67
17 investigations concerning rule-making and agency rules. 68

18 3. The Joint Committee shall monitor and investigate 70
19 compliance of agencies with the provisions of this Act, make 71
20 periodic investigations of the rule-making activities of all 72
21 agencies, and evaluate and report on all rules in terms of 73
22 their propriety, legal adequacy, relation to statutory 74
23 authorization, economic and budgetary effects and public 75
24 policy.

25 4. Hearings and investigations conducted by the Joint 77
26 Committee under this Act may be held at such times and places 78
27 within the State as such Committee deems necessary. 79

28 5. The Joint Committee shall have the authority to 81
29 require an agency to submit to the Joint Committee copies of 82
30 all public comment received by the agency concerning 83
31 rulemaking pursuant to Section 5.

32 6. The Joint Committee shall have the authority to 85

1	request from any agency an analysis of the:	86
2	a. effect of a new rule, amendment or repealer,	88
3	including any direct economic effect on the persons regulated	89
4	by the rule; any anticipated effect on the proposing agency's	90
5	budget and the budgets of other State agencies; and any	91
6	anticipated effects on State revenues;	
7	b. agency's evaluation of the submissions presented to	93
8	the agency pursuant to Section 5.01 of this Act;	94
9	c. a description of any modifications from the initially	96
10	published proposal made in the finally accepted version of	97
11	the intended rule, amendment or repealer; and	98
12	d. the agency's justification and rationale for the	100
13	intended rule, amendment or repealer.	101
14	<u>7. 6+</u> Failure of the Joint Committee to object to any	103
15	proposed rule, amendment, or repealer or any existing rule	104
16	shall not be construed as implying direct or indirect	105
17	approval of the rule or proposed rule, amendment, or repealer	
18	by the Joint Committee or the General Assembly.	108

84th GENERAL ASSEMBLY

State of Illinois

1985 and 1986

INTRODUCED _____ , BY

BILL 5

SYNOPSIS: (Ch. 111 1/2, par. 1023)

Amends the Environmental Protection Act to allow the Pollution Control Board to revise proposed rules in response to an objection or suggestion of the Joint Committee on Administrative Rules, without holding an additional public hearing on the revisions.

LRB8400800EGcb

A BILL FOR

1 AN ACT to amend Section 28 of the "Environmental 53
2 Protection Act", approved June 29, 1970, as amended. 55

3 Be it enacted by the People of the State of Illinois, 59
4 represented in the General Assembly:

5 Section 1. Section 28 of the "Environmental Protection 61
6 Act", approved June 29, 1970, as amended, is amended to read 62
7 as follows:

(Ch. 111 1/2, par. 1028) 64

8 Sec. 28. Any person may present written proposals for the 66
9 adoption, amendment, or repeal of the Board's regulations, 67
10 and the Board may make such proposals on its own motion. If 68
11 the Board finds that any such proposal is supported by an 69
12 adequate statement of reasons, is accompanied by a petition
13 signed by at least 200 persons, is not plainly devoid of 70
14 merit and does not deal with a subject on which a hearing has 71
15 been held within the preceding 6 months, the Board shall 72
16 schedule a public hearing for consideration of the proposal.
17 If such proposal is made by the Agency or by the Department 73
18 ~~Institute~~, the Board shall schedule a public hearing without 75
19 regard to the above conditions. The Board may also in its 76
20 discretion schedule a public hearing upon any proposal 77
21 without regard to the above conditions.

22 No substantive regulation shall be adopted, amended, or 79
23 repealed until after a public hearing within the area of the 80
24 State concerned. In the case of state-wide regulations 81
25 hearings shall be held in at least two areas. At least 20 82
26 days prior to the scheduled date of the hearing the Board
27 shall give notice of such hearing by public advertisement in 83
28 a newspaper of general circulation in the area of the state 84
29 concerned of the date, time, place and purpose of such 85
30 hearing; give written notice to any person in the area 86
31 concerned who has in writing requested notice of public
32 hearings; and make available to any person upon request 87

1 copies of the proposed regulations, together with summaries 88
2 of the reasons supporting their adoption. 89
3 Any public hearing relating to the adoption, amendment, 91
4 or repeal of Board regulations under this subsection shall be 92
5 held before a qualified hearing officer, who shall be 93
6 attended by at least one member of the Board, designated by 94
7 the Chairman. All such hearings shall be open to the public, 95
8 and reasonable opportunity to be heard with respect to the 96
9 subject of the hearing shall be afforded to any person. All 97
10 testimony taken before the Board shall be recorded 98
11 stenographically. The transcript so recorded, and any written 98
12 submissions to the Board in relation to such hearings, shall
13 be open to public inspection, and copies thereof shall be 99
14 made available to any person upon payment of the actual cost 100
15 of reproducing the original.
16 After such hearing the Board may revise the proposed 102
17 regulations before adoption in response to suggestions made 103
18 at the hearing, or in response to objections or suggestions 104
19 made by the Joint Committee on Administrative Rules, without 105
20 conducting a further hearing on the revisions. 106
21 Any person heard or represented at a hearing or 108
22 requesting notice shall be given written notice of the action 109
23 of the Board with respect to the subject thereof. 110
24 No rule or regulation, or amendment or repeal thereof, 112
25 shall become effective until a certified copy thereof has 113
26 been filed with the Secretary of State, and thereafter as 114
27 provided in The Illinois Administrative Procedure Act as 115
28 amended. 116

JCAR Recommendations for Legislation Passed
During 1984

The following JCAR bills were passed by the Legislature during 1984.

HB-2355 Flinn-Olson (Bloom) (P.A. 83-1314, effective September 4, 1984)

Amended the Radiation Protection Act to:

1. Define "accreditation," a term used repeatedly throughout the Act;
2. Authorize the Department of Nuclear Safety to exempt students who are under the direct supervision of Podiatrists licensed under the Medical Practice Act from the requirements of the Act;
3. Authorize the the Department to establish classes of accreditation based on evidence of certification, clinical experience, or written assurances of the applicant's skill and qualifications from an individual licensed under the Medical Practice Act, or "An Act to regulate the practice of podiatry in the State of Illinois;"
4. Authorize the Department to renew accreditation for a period of less than five years when community hardship exists;
5. Authorize the Department to deny an application for accreditation or renewal and to suspend or revoke accreditation;
6. Prohibit the Department from imposing an examination fee; and
7. Expressly provide that the Radiological Technology Accreditation Board's actions shall be advisory only.

HB-2466 Bowman-Flinn-Olson (Berman-Bloom) (P.A. 83-1387, effective January 1, 1985)

Amended the Illinois Administrative Procedure Act to permit a rule to provide for its automatic repeal on a date specified in the rule, provided that notice of repeal is published in the Illinois Register not less than 30 nor more than 60 days prior to the effective date of the repeal. This provision is not applicable to emergency rules. In addition, the bill deleted the provision in Section 4 of the Act which permitted an agency rule to be valid and effective against a person or party who had actual knowledge of the rule prior to its

filing with the Secretary of State and prior to its being available for public inspection.

HB-2525 Olson-Flinn (Bloom) (P.A. 83-1453, effective January 1, 1985)

Amended the Illinois Administrative Procedure Act to provide that no agency can assert the invalidity of one of its own rules upon which an opposing party has relied.

SB-1491 Bloom-Berman (Flinn) (Vetoed by the Governor)

Amended the Uniform Disposition of Property Act to define the term "active express trust." Also provided that the Director of the Department of Financial Institutions must not require the filing of negative periodic reports.

SB-1518 Berman-Bloom (Olson) (P.A. 83-1282, effective January 1, 1985)

Amended "An Act regulating the solicitation of funds for charitable purposes" to provide the Attorney General discretion concerning whether to cancel the registration of a person or organization for advertising the fact of its registration. Previously, cancellation was mandatory. In addition, provided that the Attorney General must set forth, by rule, standards used to determine whether a registration will be cancelled for advertising its registration.

SB-1519 Berman-Bloom (Olson) (P.A. 83-1283, effective January 1, 1985)

Amended "An Act regulating the solicitation of funds for charitable purposes" to provide the Attorney General discretion concerning whether to cancel an organization's registration for failure to file an annual report. Previously, cancellation was mandatory. In addition, provided that the Attorney General must set forth, by rule, standards used to determine whether a registration will be cancelled for failure to file an annual report.

SB-1925 Bloom (Flinn) (P.A. 83-1496, effective December 21, 1984)

The bulk of JCAR's 1984 Legislative Package was incorporated into Senate Bill 1925, an omnibus bill drafted by the Department of Public Health and the Department of Law Enforcement and amended by the Department of Agriculture and the Joint Committee on Administrative Rules in response to

recommendations and/or objections issued by the Joint Committee. Specifically, SB 1925:

1. Amended the Motor Fuel Standards Act to authorize the Department of Agriculture to collect an administrative fee for each complaint filed.
2. Amended the Alcoholism Treatment Licensing Act to require that the Department of Public Health's (DPH) rules specify the types of data and information which a facility or program must make available to the Department and to specify that the initial license issued to an alcoholism treatment program or facility shall bear no fee.
3. Amended "An Act to regulate the storage, transportation, sale and use of gasoline and volatile oils" to authorize the Office of the State Fire Marshal to promulgate rules requiring that underground storage tank repair contractors file a certificate of insurance and rules governing the dismantling of abandoned bulk storage plants.
4. Amended "An Act in relation to criminal identification and investigation" to provide that the Illinois Criminal Justice Information Authority, rather than the Department of Law Enforcement, must establish rules to allow individuals to review criminal history record information held by the Department. In addition, allowed the Authority to establish reasonable fees for such reviews and allowed the Authority to promulgate rules regarding the correction of such information. This provision was drafted by the Illinois Criminal Justice Information Authority, and was supported by the Department of Law Enforcement.
5. Amended the Public Aid Code by consolidating four bills which were drafted by the Joint Committee. House Bills 2468, 2469, 2588 and 2489 all passed the House by substantial majorities, and died in the Senate Rules Committee. The bill:

(a) amended Section 5-5 of the Public Aid Code to specify that the Department of Public Aid may classify the medical services to be provided only in accordance with the classes of persons designated in Section 5-2 of the Code as eligible for medical assistance. The Department's rules established subclasses of persons who were eligible for different medical services, rather than adhering to the classes designated in Section 5-2. The discrepancy between the Code and the rules was discovered during the Joint Committee's review of the Department's proposed rules. This provision was

originally introduced by Representatives Bowman and Olson as HB 2469;

(b) amended Section 5-5.5 of the Public Aid Code to specify that representatives of skilled nursing and intermediate care facilities have the right to review surveys or assessments of patient needs and to discuss the issues in dispute with survey staff. It was discovered during the Joint Committee's review of the Department's proposed rules that it had a policy to allow a representative of the facility to be present during these assessments, which the Department used to determine the reimbursement rate for these facilities, although the Department refused to include this policy within its rules. This provision was originally introduced by Representative Levin and Olson as HB 2488;

(c) amended Section 5-5.6a of the Public Aid Code to specifically require the Department of Public Aid to promulgate new methods for reimbursing skilled nursing facilities for pediatrics and intermediate care facilities for the mentally retarded by January 1, 1985. Section 5-5.6a required the Department of Public Aid to promulgate new methods (other than the "point count" system) for reimbursing skilled and intermediate care nursing facilities which care for recipients of medical assistance no later than July 1, 1982. However, the Department took the position that Section 5-5.6a did not apply to skilled nursing facilities for pediatrics and intermediate care facilities for the mentally retarded. The Department refused to amend its rules governing these facilities to abandon the "point count" system, and therefore the Joint Committee staff drafted HB 2468 sponsored by Representatives Bowman and Olson, to clarify that the Department could not use the "point count" system for any skilled and/or intermediate care nursing facility; and

(d) amended Section 12-13 of the Public Aid Code to provide that whenever a rule of the Department of Public Aid requires that applicants or recipients verify information submitted to the Department, the rule must specify the acceptable means of verification or list examples of acceptable verification. During a review of the rules of the Department of Public Aid, it was discovered that, although verification was oftentimes required, the

Department's policy regarding acceptable means of verification was not clearly stated in the rules. This provision was originally introduced as HB 2489, sponsored by Representatives Levin and Olson.

6. Amended "An Act to provide for the regulation of mortgage bankers," the Illinois Insurance Code, the Uniform Disposition of Unclaimed Property Act, and the Religious and Charitable Risk Pooling Trust Act by consolidating four bills which were drafted by the Joint Committee staff and introduced in the House as House Bills 2462, 2463, 2499, and 2500. All four bills passed the House by wide majorities and died in the Senate Rules Committee. The bill:

(a) amended "An Act to provide for the regulation of mortgage bankers" to specify that the Illinois residential mortgage foreclosure rate (used by the Commissioner of Savings and Loans to compute a residential foreclosure rate on government-insured mortgages for each institution) related to loans originated by a lender. Section 6 of the Act required that the rate be based upon loans with which the lender had any connection, whereas the Commissioner's rules based this rate upon loans originated by the lender. This discrepancy between the Act and the rules was discovered as a result of the Joint Committee's Five Year Review of rules relating to Financial Institutions. This provision was originally introduced by Representative Flinn as HB 2463;

(b) amended the Illinois Insurance Code to clarify that domestic mutual insurance companies must maintain the greater of the original or minimum surplus required by Section 43 of the Code. Section 43 of the Act presently uses the term "original surplus" when referring to the requirements for particular classes of insurance and "minimum surplus" when referring to the required surplus which a particular company must maintain at all times, whereas Section 56 provided that loans can be repaid only out of the surplus in excess of the original surplus required by Section 43. Apparently, Section 43 was amended to establish a minimum surplus at an amount greater than the original surplus requirement, but Section 56 was never correspondingly amended. This discrepancy between the sections of the Code was discovered by the Joint

Committee as a result of the Five Year Review of the Department's rules. This provision was originally introduced by Representative Flinn and Hawkinson as HB 2500. The Department of Insurance agreed with the Committee that the best financial safeguard is requiring that the greater of original or minimum surplus be maintained, and therefore, the Department supported HB 2500;

(c) amended the Uniform Disposition of Unclaimed Property Act to provide that hearings upon claims filed under the Act can be conducted by the Director of the Department of Financial Institutions or by a hearing officer designated by the Director, and required that the Director review the findings and a decision in each hearing conducted by a hearing officer and issue a final written decision. Section 10 of the Act, as previously written, required the Director to personally preside at all hearings conducted under the Act, whereas the Department's rules allowed the Director to designate a hearing officer to conduct such hearings. This discrepancy between the Act and the rules was discovered during the Joint Committee's Five Year Review of the rules of the Department of Financial Institutions adopted pursuant to the Illinois Uniform Disposition of Unclaimed Property Act. This provision was originally introduced by Representative Flinn as HB 2562; and

(d) amended the Religious and Charitable Risk Pooling Trust Act to make trust funds subject to the record-keeping requirements of Section 133 of the Insurance Code. The rules of the Department of Insurance required trusts subject to the Act to observe the record-keeping requirements of Section 133 of the Code, whereas the Act contained no statutory authority for the Department to impose this requirement. This conflict was discovered during the Joint Committee's Five Year Review of insurance regulations. This provision was originally introduced by Representatives Flinn and Hawkinson as HB 2499.

7. Amended "An Act in relation to the State Police" to provide that the Superintendent of State Police must be appointed pursuant to The Civil Administrative Code of Illinois, rather than by the Governor, and amended Sections 5.11, 9.11 and 55a-1 of The Civil Administrative Code

to provide that the Division of State Police shall have as its head a Superintendent, rather than a Deputy Director, and deleted the provision which specified the salary to be paid by the Superintendent. The amendment was drafted by the Department of Law Enforcement.

8. Finally, SB 1925 was amended in the House Judiciary Committee to amend the following Acts:

(a) the Nursing Home Care Reform Act of 1979 to exempt nurses' aides, orderlies, and nurse technicians from the requirement that an approved training course must be completed within 120 days if the applicant is enrolled in an approved course in a community college or other educational institution which is conducted on a term, semester, or trimester basis, and further authorized the Department of Public Health to establish, by rule, a "recognized training course" which may be offered by nursing facilities. Persons enrolled in a facility-offered training course are required to complete a proficiency examination within 120 days after the commencement of employment. This change did not alter the Department's requirement that an applicant either complete an approved training course or pass a proficiency examination;

(b) the Emergency Medical Services Systems Act to authorize the Department of Public Health to: (1) require that candidates for Emergency Medical Technologist-Paramedic (EMT-P) training be sponsored by, employed by, or show documentation of functioning within a State-approved Emergency Medical Services (EMS) vehicle agency providing advanced life support systems; (2) require that approved EMS systems must be fully operational within one year; and (3) grant inactive status to any qualifying EMT-I (Intermediate) or EMT-P. Also provided the Department with a general grant of rulemaking authority in the Civil Administrative Code; and

(c) the Civil Administrative Code to authorize the Department of Public Health to adopt rules relating to federal grant monies received by the State for health purposes. In addition, amended the Civil Administrative Code to provide general rulemaking authority to the Department of Law Enforcement and the Department of Public Health to adopt all rules and regulations necessary for the

effective administration, enforcement, and regulation of all matters for which each Department has jurisdiction and responsibility.

APPENDIX A

THE ILLINOIS ADMINISTRATIVE PROCEDURE ACT

(Codified by West Publishing Company in Illinois Revised Statutes
at chapter 127, paragraphs 1001-1021.)

AN ACT in relation to administrative rules and procedures, and to amend an Act therein named and in connection therewith. (PA 79-1083, approved and effective September 22, 1975)

Section 1. SHORT TITLE) This Act shall be known and may be cited as "The Illinois Administrative Procedure Act." (PA 79-1083)

Section 2. APPLICABILITY) This Act applies to every agency as defined herein. Beginning January 1, 1978 in case of conflict between the provisions of this Act and the Act creating or conferring power on an agency, this Act shall control. However if an agency has existing procedures on July 1, 1977 specifically for contested cases or licensing those existing provisions control, except that this exception respecting contested cases and licensing does not apply if the Act creating or conferring power on the agency adopts by express reference the provision of this Act. Where the Act creating or conferring power on an agency establishes administrative procedures not covered by this Act, such procedures shall remain in effect.

The provisions of this Act shall not apply to (1) preliminary hearings, investigations or practices where no final determinations affecting State funding are made by the State Board of Education, (2) legal opinions issued under Section 2-3.7 of The School Code, (3) as to State colleges and universities, their disciplinary and grievance proceedings, academic irregularity and capricious grading proceedings, and admission standards and procedures, and (4) the class specifications for positions and individual position descriptions prepared and maintained pursuant to the "Personnel Code"; however such specifications shall be made reasonably available to the public for inspection and copying. Neither shall the provisions of this Act apply to hearings under Section 20 of the "Uniform Disposition of Unclaimed Property Act." (PA 79-1083; Amended by PA 80-1035, effective September 27, 1977; Amended by PA 80-1457, effective January 1, 1979; Amended by PA 81-1514, effective January 1, 1981; Amended by PA 83-0891, effective November 2, 1983)

Section 3. DEFINITIONS) As used in this Act, unless the context otherwise requires, the terms specified in Section 3.01 through 3.10 have the meanings ascribed to them in those Sections. (PA 79-1083; Amended by PA 82-C783, effective July 13, 1982)

Section 3.01. AGENCY) "Agency" means each officer, board, commission and agency created by the Constitution, whether in the executive, legislative, or judicial branch of State government, but other than the circuit court; each officer, department, board, commission, agency, institution, authority, university, body politic and corporate of the State; and each administrative unit or corporate outgrowth of the State government which is created by or pursuant to statute, other

than units of local government and their officers, school districts and boards of election commissioners; each administrative unit or corporate outgrowth of the above and as may be created by executive order of the Governor. However, "agency" does not include:

- (a) the House of Representatives and Senate, and their respective standing and service committees;
- (b) the Governor; and
- (c) the justices and judges of the Supreme and Appellate Courts.

No entity shall be considered an "agency" for the purposes of this Act unless authorized by law to make rules or to determine contested cases. (PA 79-1083; Amended by PA 80-1457, effective January 1, 1979)

Section 3.02. CONTESTED CASE) "Contested case" means an adjudicatory proceeding, not including rate-making, rule-making, quasi-legislative, informational or similar proceedings, in which the individual legal rights, duties or privileges of a party are required by law to be determined by an agency only after an opportunity for hearing. (PA 79-1083; Amended by PA 80-1035, effective September 27, 1977)

Section 3.03. HEARING EXAMINER) "Hearing examiner" means the presiding officer or officers at the initial hearing before each agency and each continuation thereof. (PA 79-1083)

Section 3.04. LICENSE) "License" includes the whole or part of any agency permit, certificate, approval, registration, charter, or similar form of permission required by law, but it does not include a license required solely for revenue purposes. (PA 79-1083)

Section 3.05. LICENSING) "Licensing" includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal or amendment of a license. (PA 79-1083)

Section 3.06. PARTY) "Party" means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party. (PA 79-1083)

Section 3.07. PERSON) "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency. (PA 79-1083)

Section 3.08. RATE-MAKING OR RATE-MAKING ACTIVITIES) "Rate-making" or "Rate-making activities" means the establishment or review of or other exercise of control over the rates or charges for the products or services of any person, firm or corporation operating or transacting any business in this State. (PA 79-1083)

Section 3.09. RULE) "Rule" means each agency statement of general applicability that implements, applies, interprets, or prescribes law or policy, but does not include (a) statements concerning only the internal management of an agency and not affecting private rights or

procedures available to persons or entities outside the agency, (b) informal advisory rulings issued pursuant to Section 9, (c) intra-agency memoranda or (d) the prescription of standardized forms. (PA 79-1083; Amended by PA 80-1035, effective September 27, 1977)

Section 3.10. SMALL BUSINESS) For the purpose of this Act, "small business" means a concern, including its affiliates, which is independently owned and operated, not dominant in its field and which employs fewer than 50 full-time employees or which has gross annual sales of less than \$4 million. For purposes of a specific rule, an agency may define small business to include more persons if it finds that such a definition is necessary to adapt the rule to the needs and problems of small businesses and organizations. (Added by PA 82-492, effective January 1, 1982)

Section 4. ADOPTION OF RULES: PUBLIC INFORMATION, AVAILABILITY OF RULES) (a) In addition to other rule-making requirements imposed by law, each agency shall:

1. adopt rules of practice setting forth the nature and requirements of all formal hearings;
2. make available for public inspection all rules adopted by the agency in the discharge of its functions.

(b) Each agency shall make available for public inspection all final orders, decisions and opinions, except those deemed confidential by state or federal statute and any trade secrets.

(c) No agency rule is valid or effective against any person or party, nor may it be invoked by the agency for any purpose, until it has been made available for public inspection and filed with the Secretary of State as required by this Act. However, no Agency shall assert the invalidity of a rule which it has adopted pursuant to this Act when an opposing party has relied upon such rule. (Amended by P.A. 83-1387, effective January 1, 1985; Amended by P.A. 83-1453, effective January 1, 1985)

(d) Rule-making which creates or expands a State mandate on units of local government, school districts, or community college districts is subject to the State Mandates Act. The required Statement of Statewide Policy Objectives shall be published in the Illinois Register at the same time that the first notice under Section 5.01 is published or when the rule is published under Section 5.02 or 5.03. (PA 79-1083; Amended by PA 80-1035, effective September 27, 1977; Amended by PA 81-1562, effective January 16, 1981)

Section 4.01 REQUIRED RULES) (a) Each agency shall maintain as rules the following:

1. a current description of the agency's organization with necessary charts depicting same;
2. the current procedures on how the public can obtain information or make submissions or requests on subjects, programs, and activities of the agency;

3. tables of contents, indices, reference tables, and other materials to aid users in finding and using the agency's collection of rules currently in force; and
4. a current description of the agency's rule-making procedures with necessary flow charts depicting same.

(b) The rules required to be filed by this Section may be adopted, amended, or repealed and filed as provided in this Section in lieu of any other provisions or requirements of this Act.

The rules required by this Section may be adopted, amended, or repealed by filing a certified copy with the Secretary of State as provided by paragraphs (a) and (b) of Section 6, and may become effective immediately. (Added by PA 80-1035, effective September 27, 1977; Amended by PA 81-1044, effective October 1, 1979)

Section 4.02. RULES IMPLEMENTING DISCRETIONARY POWERS: STANDARDS) Each rule which implements a discretionary power to be exercised by an agency shall include the standards by which the agency shall exercise the power. Such standards shall be stated as precisely and clearly as practicable under the conditions, to inform fully those persons affected. (Added by PA 81-1129, effective July 1, 1980)

Section 4.03. SMALL BUSINESS FLEXIBILITY) When an agency proposes a new rule, or an amendment to an existing rule, which may have an impact on small businesses, the agency shall do each of the following: (a) The agency shall consider each of the following methods for reducing the impact of the rulemaking on small businesses. The agency shall reduce the impact by utilizing one or more of the following methods, if it finds that the methods are legal and feasible in meeting the statutory objectives which are the basis of the proposed rulemaking.

1. Establish less stringent compliance or reporting requirements in the rule for small businesses.
2. Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small businesses.
3. Consolidate or simplify the rule's compliance or reporting requirements for small businesses.
4. Establish performance standards to replace design or operational standards in the rule for small businesses.
5. Exempt small businesses from any or all requirements of the rule.

(b) Prior to or during the notice period required under Section 5.01(a) of this Act, the agency shall provide an opportunity for small businesses to participate in the rulemaking process. The Agency shall utilize one or more of the following techniques. These techniques are in addition to other rulemaking requirements imposed by this Act or by any other Act.

1. The inclusion in any advance notice of possible rulemaking of a statement that the rule may have an impact on small businesses.

2. The publication of a notice of rulemaking in publications likely to be obtained by small businesses.
3. The direct notification of interested small businesses.
4. The conduct of public hearings concerning the impact of the rule on small businesses.
5. The use of special hearing or comment procedures to reduce the cost or complexity of participation in the rulemaking by small businesses.

(c) Prior to the notice period required under Section 5.01(a) of this Act, the agency shall notify the Business Assistance Office of the Department of Commerce and Community Affairs when rules affect businesses. The Business Assistance Office shall prepare an impact analysis of the rule describing its effect on small businesses. The impact analysis shall be completed within the notice period as described in subsection (a) of Section 5.01. Upon completion of the analysis the Business Assistance Office shall submit this analysis to both the Joint Committee on Administrative Rules and to the agency proposing the rule. The impact analysis shall contain the following:

1. A summary of the projected reporting, recordkeeping and other compliance requirements of the proposed rule.
2. A description of the types and an estimate of the number of small businesses to which the proposed rule will apply.
3. An estimate of the economic impact which the regulation will have on the various types of small businesses affected by the rulemaking.
4. A description of or a listing of alternatives to the proposed rule which would minimize the economic impact of the rule. Such alternative must be consistent with the stated objectives of the applicable statutes and regulations.

(Added by PA 82-492, effective January 1, 1982; Amended by PA 83-1341, effective September 7, 1984)

Section 5. PROCEDURE FOR RULE-MAKING) (a) Prior to the adoption, amendment or repeal of any rule, each agency shall accomplish the actions required by Sections 5.01, 5.02 or 5.03, whichever is applicable.

(b) No action by any agency to adopt, amend or repeal a rule after this Act has become applicable to the agency shall be valid unless taken in compliance with this Section. A proceeding to contest any rule on the ground of non-compliance with the procedural requirements of this Section must be commenced within 2 years from the effective date of the rule.

(c) The notice and publication requirements of this Section do not apply to a matter relating solely to agency management, personnel practices, or to public property, loans or contracts. (PA 79-1083; Amended by PA 81-1035, effective September 27, 1977; Amended by PA 81-1044, effective October 1, 1979)

Section 5.01. GENERAL RULEMAKING) In all rulemaking to which Sections 5.02 and 5.03 do not apply, each agency shall:

(a) give at least 45 days' notice of its intended action to the general public. This first notice period shall commence on the first day the notice appears in the Illinois Register. The first notice shall include:

1. The text of the proposed rule, or the old and new materials of a proposed amendment, or the text of the provision to be repealed;
2. The specific statutory citation upon which the proposed rule, the proposed amendment to a rule or the proposed repeal of a rule is based and is authorized;
3. A complete description of the subjects and issues involved;
4. For all proposed rules and proposed amendments to rules, an initial regulatory flexibility analysis, which shall contain a description of the types of small businesses subject to the rule; a brief description of the proposed reporting, bookkeeping, and other procedures required for compliance with the rule; and a description of the types of professional skills necessary for compliance; and
5. The time, place and manner in which interested persons may present their views and comments concerning the proposed rulemaking.

During the first notice period, the agency shall provide all interested persons who submit a request to comment within the first 14 days of the notice period reasonable opportunity to submit data, views, arguments or comments, which may, in the discretion of the agency, be submitted either orally or in writing or both. The notice published in the Illinois Register shall indicate the manner selected by the agency for such submissions. The agency shall consider all submissions received.

The agency shall hold a public hearing on the proposed rulemaking, during the first notice period, in the following cases: (1) the agency finds that a public hearing would facilitate the submission of views and comments which might not otherwise be submitted; (2) the agency receives a request for a public hearing, within the first 14 days after publication of the notice of proposed rulemaking in the Illinois Register, from 25 interested persons, an association representing at least 100 interested persons, the Governor, the Joint Committee on Administrative Rules, or a unit of local government which may be affected. At the public hearing, the agency shall allow interested persons to present views and comments on the proposed rulemaking. Such a public hearing in response to a request for a hearing may not be held less than 20 days after the publication of the notice of proposed rulemaking in the Illinois Register, unless notice of the public hearing is included in the notice of proposed rulemaking. A public hearing on proposed rulemaking may not be held less than 10 days before submission of the notice required under paragraph (b) of this Section to the Joint Committee on Administrative Rules. Each agency may prescribe reasonable rules for the conduct of public hearings on proposed rulemaking to prevent undue repetition at such hearings. Such hearings must be open to the public and recorded by stenographic or mechanical means.

(b) provide up to 45 days additional notice of the proposed rulemaking to the Joint Committee on Administrative Rules. The second notice period shall commence on the day written notice is received by the Joint Committee, and shall expire 45 days thereafter unless prior to that time the agency shall have received a statement of objection from the Joint Committee, or notification from the Joint Committee that no objection will be issued. The written notice to the Joint Committee shall include: (1) the text and location of any changes made to the proposed rulemaking during the first notice period; (2) for all proposed rules and proposed amendments to rules, a final regulatory flexibility analysis, which shall contain a summary of issues raised by small businesses during the first notice period; and a description of actions taken on any alternatives to the proposed rule suggested by small businesses during the first notice period, including reasons for rejecting any alternatives not utilized; and (3) if written request has been made by the Joint Committee within 30 days after initial notice appears in the Illinois Register pursuant to Paragraph (a) of this Section, an analysis of the economic and budgetary effects of the proposed rulemaking. After commencement of the second notice period, no substantive change may be made to a proposed rulemaking unless it is made in response to an objection or suggestion of the Joint Committee. The agency shall also send a copy of the final regulatory flexibility analysis to each of the small businesses which have presented views or comments on the proposed rulemaking during the first notice period and to any interested person who requests a copy during the first notice period. The agency may charge a reasonable fee for providing such copies to cover postage and handling costs.

(c) after the expiration of 45 days, after notification from the Joint Committee that no objection will be issued, or after response by the agency to a statement of objections issued by the Joint Committee, whichever is applicable, the agency shall file, pursuant to Section 6 of this Act, a certified copy of each rule, modification, or repeal of any rule adopted by it, which shall be published in the Illinois Register. Each rule hereafter adopted under this Section is effective upon filing, unless a later effective date is required by statute or is specified in the rule.

(d) no rule or modification or repeal of any rule may be adopted, or filed with the Secretary of State, more than one year after the date the first notice period for the rulemaking under paragraph (a) commenced. Any period during which the rulemaking is prohibited from being filed under Section 7.06a shall not be considered in calculating this one-year time period. This paragraph (d) applies to any rule or modification or repeal of any rule which has not been filed with the Secretary of State prior to the effective date of this amendatory Act of 1981. (Added by PA 81-1044, effective October 1, 1979; Amended by PA 82-242, effective January 1, 1982; Amended by PA 82-492, effective January 1, 1982; Amended by PA 82-783, effective July 13, 1982)

Section 5.02. EMERGENCY RULEMAKING) "Emergency" means the existence of any situation which any agency finds reasonably constitutes a threat to the public interest, safety or welfare. Where any agency finds that an emergency exists which requires adoption of a rule upon fewer days than is required by Section 5.01, and states in writing its

reasons for that finding, the agency may adopt an emergency rule without prior notice or hearing, upon filing a notice of emergency rulemaking with the Secretary of State pursuant to Section 6.01 of this Act. Such notice shall include the text of the emergency rule and shall be published in the Illinois Register. Subject to applicable constitutional or statutory provisions, an emergency rule becomes effective immediately upon filing pursuant to Section 6, or at a stated date less than 10 days thereafter. The agency's finding and a statement of the specific reasons therefor shall be filed with the rule. The agency shall take reasonable and appropriate measures to make emergency rules known to the persons who may be affected by them.

An emergency rule may be effective for a period of not longer than 150 days, but the agency's authority to adopt an identical rule under Section 5.01 of this Act is not precluded. No emergency rule may be adopted more than once in any 24 month period. Two or more emergency rules having substantially the same purpose and effect shall be deemed to be a single rule for purposes of this Section. (Added by PA 81-1044, effective October 1, 1979)

Section 5.03. PEREMPTORY RULEMAKING) "Peremptory rulemaking" means any rulemaking which is required as a result of federal law, federal rules and regulations, or an order of a court, under conditions which preclude compliance with general rulemaking requirements imposed by Section 5.01 and which preclude the exercise of discretion by the agency as to the content of the rule it is required to adopt. Where any agency finds that peremptory rulemaking is necessary and states in writing its reasons for that finding, the agency may adopt peremptory rulemaking upon filing a notice of rulemaking with the Secretary of State pursuant to Section 6.01 of this Act. Such notice shall be published in the Illinois Register. A rule adopted under the peremptory rulemaking provisions of this Section becomes effective immediately upon filing with the Secretary of State and in the agency's principal office, or at a date required or authorized by the relevant federal law, federal rules and regulations, or court order, as stated in the notice of rulemaking. Notice of rulemaking under this Section shall be published in the Illinois Register, and shall specifically refer to the appropriate state or federal court order or federal law, rules and regulations, and shall be in such form as the Secretary of State may reasonably prescribe by rule. The agency shall file the notice of peremptory rulemaking within 30 days after a change in rules is required. (Added by PA 81-1044, effective October 1, 1979)

Section 5.04. AUTOMATIC REPEAL OF RULES. A rule may provide for its automatic repeal on a date specified in the rule. The repeal shall be effective on the date specified, provided that notice of the repeal is published in the Illinois Register not less than 30 nor more than 60 days prior to the effective date of the repeal. This section shall not apply to any rules filed pursuant to Section 5.02 of this Act. (Added by P.A. 83-1387, effective January 1, 1985)

Section 6. FILING OF RULES) (a) Each agency shall file in the office of the Secretary of State and in the agency's principal office a certified copy of each rule and modification or repeal of any rule

adopted by it. The Secretary of State and the agency shall each keep a permanent register of the rules open to public inspection.

(b) Concurrent with the filing of any rule pursuant to this Section, the filing agency shall submit to the Secretary of State for publication in the next available issue of the Illinois Register a notice of adopted rules. Such notice shall include:

1. The text of the adopted rule, which shall include: if the material is a new rule, the full text of the new rule; or if the material is an amendment to a rule or rules, the full text of the rule or rules as amended; or if the material is a repealer, such notice of repeal.

2. The name, address and telephone number of an individual who will be available to answer questions and provide information to the public concerning the adopted rules.

3. Such other information as the Secretary of State may by rule require in the interest of informing the public. (PA 79-1083; Amended by PA 80-1035, effective September 27, 1979; Amended by PA 81-1044, effective October 1, 1979; Amended by PA 82-298, effective January 1, 1982)

Section 6.01. FORM AND PUBLICATION OF NOTICES) The Secretary of State may prescribe reasonable rules concerning the form of documents to be filed with him, and may refuse to accept for filing such certified copies as are not in compliance with such rules. In addition, the Secretary of State shall publish and maintain the Illinois Register and may prescribe reasonable rules setting forth the manner in which agencies shall submit notices required by this Act for publication in the Illinois Register. The Illinois Register shall be published at least once each week on the same day unless such day is an official State holiday in which case the Illinois Register shall be published on the next following business day and sent to subscribers who subscribe for the publication with the Secretary of State. The Secretary of State may charge a subscription price to subscribers that covers mailing and publication costs. (Added by PA 81-1044, effective October 1, 1979; Amended by PA 82-689, effective July 1, 1982; Amended by PA 83-636, effective September 21, 1983)

Section 6.02. INCORPORATION BY REFERENCE) An agency may incorporate by reference, in its rules adopted in accordance with Section 5 of this Act, regulations or rules of an agency of the United States or of a nationally recognized organization or association without publishing the incorporated material in full. The reference in the agency rules must fully identify the incorporated matter by location and date, and must state that the rule does not include any later amendments or editions. The agency adopting the rule shall maintain a copy of the referenced regulation, rule or standard and shall make it available to the public upon request for inspection and copying at no more than cost. An agency may also at its discretion file a copy of referenced regulations, rules or standards with the State Library. An agency may incorporate by reference such matters in its rules only if the agency, organization or association originally issuing the matter makes copies readily available to the public. This section shall not

apply to any agency internal manual. (Added by PA 83-638, effective September 21, 1983)

Section 7. CODIFICATION OF RULES - PUBLICATION (a) The Secretary of State shall, by rule, prescribe a uniform system for the codification of rules on or before July 1, 1980. The Secretary of State shall also, by rule, establish a schedule for compliance with the uniform codification system on or before October 1, 1980. Such schedule may be by sections of the codification system and shall require approximately one-fourth of the rules to be converted to the codification system by each October 1, starting in 1981 and ending in 1984. All rules on file with the Secretary of State and in effect on October 1, 1984, shall be in compliance with the uniform system for the codification of rules. Rules not so codified as of October 1, 1984, are void, shall be withdrawn by the Secretary of State from the permanent register of the rules, and shall not be published by the Secretary of State in either the Illinois Administrative Code or in the Illinois Register. The Secretary of State shall not adopt any codification system or schedule under this subsection without the approval of the Joint Committee on Administrative Rules. Approval by the Joint Committee shall be conditioned solely upon establishing that the proposed codification system and schedule are compatible with existing electronic data processing equipment and programs maintained by and for the General Assembly. Nothing in this Section shall prohibit an agency from adopting rules in compliance with the codification system earlier than specified in the schedule. (Amended by PA 83-555, effective January 1, 1984)

(b) If no substantive changes are made by the agency in amending existing rules to comply with the codification system, such codified rules may be adopted until October 1, 1984, without requiring notice or publication of the text of rules pursuant to Section 5. In such a case, the publication requirement shall be satisfied by the publication in the Illinois Register of a notice stating that the agency has adopted the rules to comply with the codification system, that no substantive changes have been made in the rules and that the State Library has reviewed and approved the codification of the rules. The notice shall include the current names and numbers of the rules being codified, an outline of the headings of the sections of the rules as codified and may also include a table indicating the relationship between any rule numbers previously used by the agency and the numbering system of the codified rules. The agency shall provide the text of such rules as codified to the State Library for review and necessary changes and recommendations at least 30 days prior to the publication of such notice. Whenever the codification of an emergency or peremptory rule is changed subsequent to its publication as adopted in the Illinois Register, a notice of such change, in the manner set forth in this subsection, shall be published in the next available issue of the Illinois Register. Such a change in the rule's codification shall not affect its validity or the date upon which it became effective.

(c) Each rule proposed in compliance with the codification system shall be reviewed by the State Library under the Secretary of State prior to the expiration of the public notice period provided by Section 5.01 (a) of this Act or prior to the publication of the notice required

under subsection (b) of this section. The State Library shall cooperate with agencies in its review to insure that the purposes of the codification system are accomplished. The State Library shall have the authority to make changes in the numbering and location of the rule in the codification scheme, providing such changes do not affect the meaning of the rules. The State Library may recommend changes in the sectioning and headings proposed by the agency and suggest grammatical and technical changes to correct errors. The State Library may add notes concerning the statutory authority, dates proposed and adopted and other similar notes to the text of the rules, if such notes are not supplied by the agency. This review by the State Library shall be for the purpose of insuring the uniformity of and compliance with the codification system. The State Library shall prepare indexes by agency, subject matter, and statutory authority and any other necessary indexes, tables and other aids for locating rules to assist the public in the use of the Code.

(d) The State Library shall make available to the agency and the Joint Committee on Administrative Rules copies of the changes in the numbering and location of the rule in the codification scheme, the recommended changes in the sectioning and headings, and the suggestions made concerning the correction of grammatical and technical errors or other suggested changes. The agency shall in the notice required by Section 5.01(b) of this Act, or if such notice is not required, at least 10 days prior to the publication of the notice required under subsection (b) of this Section, provide to the Joint Committee a response to the recommendations of the State Library including any reasons for not adopting the recommendations.

(e) In the case of reorganization of agencies, transfer of functions between agencies, or abolishment of agencies by executive order or law, which affects rules on file with the Secretary of State, the State Library shall notify the Governor, the Attorney General, and the agencies involved of the effects upon such rules on file. If the Governor or the agencies involved do not respond to the State Library's notice within 45 days by instructing the State Library to delete or transfer the rules, the State Library may delete or place such rules under the appropriate agency for the purpose of insuring the consistency of the codification scheme and shall notify the Governor, the Attorney General and the agencies involved.

(f) The Secretary of State shall publish an Illinois Administrative Code as effective January 1, 1985. The code shall be published on or before June 1, 1985, and the Secretary of State shall update each section of the Code at least annually thereafter. Such Code shall contain the complete text of all rules of all State agencies filed with his office and effective on October 1, 1984, or later and the indexes, tables, and other aids for locating rules prepared by the State Library. The Secretary of State shall design the Illinois Register to supplement such Code. The Secretary of State shall make copies of the Code available generally at a price covering publication and mailing costs. (Amended by PA 83-556, effective January 1, 1985)

(g) The publication of a rule in the Code or in the Illinois Register as an adopted rule shall establish a rebuttable presumption

that the rule was duly filed and that the text of the rule as published in the Code is the text of the rule as adopted. Publication of the text of a rule in any other location whether by the agency or some other person shall not be taken as establishing such presumption. Judicial notice shall be taken of the text of each rule published in the Code or Register.

(h) The codification system, the indexes, tables, and other aids for locating rules prepared by the State Library, notes and other materials developed under this Section in connection with the publication of the Illinois Administrative Code shall be the property of the State. No person may attempt to copyright or publish for sale such materials except the Secretary of State as provided in this Section. (PA 79-1083; Amended by PA 80-1035, effective September 27, 1977; Amended by PA 80-1457, effective January 1, 1979; Amended by PA 81-1348, effective July 16, 1980; Amended by PA 83-555, effective January 1, 1984; Amended by PA 83-556, effective January 1, 1984; Amended by PA 83-1362, effective September 11, 1984)

Section 7.01. CERTIFICATION OF RULES FILED WITH THE SECRETARY OF STATE) (a) Beginning January 1, 1976, whenever a rule, or modification or repeal of any rule, is filed with the Secretary of State, the Secretary of State within three working days after such filing shall send a certified copy of such rule, modification or repeal to the Joint Committee on Administrative Rules established in Section 7.02.

(b) Any rule on file with the Secretary of State on January 1, 1978 shall be void 60 days after that date unless within such 60 day period the issuing agency certifies to the Secretary of State that the rule is currently in effect.

Within 45 days after the receipt of any certification pursuant to this sub-section (b), the Secretary of State shall send to the Joint Committee on Administrative Rules established in Section 7.02 a copy of each agency's certification so received along with a copy of the rules covered by the certification. (Added by PA 80-1035, effective September 27, 1977)

Section 7.02. ESTABLISHMENT AS LEGISLATIVE SUPPORT SERVICES AGENCY - AGENDA - PUBLICATION OF INFORMATION - FEES) The Joint Committee on Administrative Rules is established as a legislative support services agency subject to the Legislative Commission Reorganization Act of 1984.

When feasible the agenda of each meeting of the Joint Committee shall be submitted to the Secretary of State to be published at least 5 days prior to the meeting in the Illinois Register. The Joint Committee may also weekly, or as often as necessary, submit for publication in the Illinois Register lists of the dates on which notices under Section 5.01 of this Act were received and the dates on which the proposed rulemakings will be considered. The provisions of this subsection shall not prohibit the Joint Committee from acting upon an item that was not contained in the published agenda.

The Joint Committee may charge reasonable fees for copies of documents or publications to cover the cost of copying or printing. However, the Joint Committee shall provide copies of documents or publications without cost to agencies which are directly affected by recommendations or findings included in such documents or publications. (Added by PA 80-1035, effective September 27, 1977; Amended by PA 80-1457, effective January 1, 1979; Amended by PA 82-372, effective September 2, 1981; Amended by PA 83-638, effective September 21, 1983; Amended by PA 83-1257, effective August 15, 1984)

Section 7.03. ADMINISTRATION OF OATHS OR AFFIRMATIONS - AFFIDAVITS OR DEPOSITIONS - SUEPCENA) (a) The Executive Director of the Joint Committee or any person designated by him may administer oaths or affirmations, take affidavits or depositions of any person.

(b) The Executive Director, upon approval of a majority vote of the Joint Committee, or the presiding officers may subpoena and compel the attendance before the Joint Committee and examine under oath any person, or the production for the Joint Committee of any records, books, papers, contracts or other documents.

If any person fails to obey a subpoena issued under this Section, the Joint Committee may apply to any circuit court to secure compliance with the subpoena. The failure to comply with the order of the court issued in response thereto shall be punished as a contempt. (Added by PA 80-1035, effective September 27, 1977)

Section 7.04. POWERS OF JOINT COMMITTEE) The Joint Committee shall have the following powers under this Act:

1. The function of the Joint Committee shall be the promotion of adequate and proper rules by agencies and an understanding on the part of the public respecting such rules. Such function shall be advisory only, except as provided in Sections 7.06a and 7.07a.

2. The Joint Committee may undertake studies and investigations concerning rule-making and agency rules.

3. The Joint Committee shall monitor and investigate compliance of agencies with the provisions of this Act, make periodic investigations of the rule-making activities of all agencies, and evaluate and report on all rules in terms of their propriety, legal adequacy, relation to statutory authorization, economic and budgetary effects and public policy.

4. Hearings and investigations conducted by the Joint Committee under this Act may be held at such times and places within the State as such Committee deems necessary.

5. The Joint Committee shall have the authority to request from any agency an analysis of the:

a. effect of a new rule, amendment or repealer, including any direct economic effect on the persons regulated by the rule; any anticipated effect on the proposing agency's budget and the budgets of other State agencies; and any anticipated effects on State revenues;

- b. agency's evaluation of the submissions presented to the agency pursuant to Section 5.01 of this Act;
- c. a description of any modifications from the initially published proposal made in the finally accepted version of the intended rule, amendment or repealer;
- d. agency's justification and rationale for the intended rule, amendment or repealer.

6. Failure of the Joint Committee to object to any proposed rule, amendment, or repealer or any existing rule shall not be construed as implying direct or indirect approval of the rule or proposed rule, amendment, or repealer by the Joint Committee or the General Assembly. (Added by PA 80-1035, effective September 27, 1977; Amended by PA 80-1044, effective October 1, 1978; Amended by PA 81-1035, effective January 1, 1980; Amended by PA 81-1514, effective January 1, 1981)

Section 7.05. RESPONSIBILITIES OF JOINT COMMITTEE) The Joint Committee shall have the following responsibilities under this Act:

1. The Joint Committee shall conduct a systematic and continuing study of the rules and rule-making process of all state agencies, including those agencies not covered in Section 3.01 of this Act, for the purpose of improving the rule-making process, reducing the number and bulk of rules, removing redundancies and unnecessary repetitions and correcting grammatical, typographical and like errors not affecting the construction or meaning of the rules, and it shall make recommendations to the appropriate affected agency.

2. The Joint Committee shall review the statutory authority on which any administrative rule is based.

3. The Joint Committee shall maintain a review program, to study the impact of legislative changes, court rulings and administrative action on agency rules and rule-making.

4. The Joint Committee shall suggest rulemaking of an agency whenever the Joint Committee, in the course of its review of the agency's rules under this Act, determines that the agency's rules are incomplete, inconsistent or otherwise deficient. (Added by PA 80-1035, effective September 27, 1977; Amended by PA 81-1044, effective October 1, 1979)

Section 7.06. EXAMINATION OF PROPOSED RULE, AMENDMENT OR REPEAL OF RULE BY THE JOINT COMMITTEE - DETERMINATIONS - EVALUATION OF STATE FORMS) (a) The Joint Committee may examine any proposed rule, amendment to a rule, and repeal of a rule for the purpose of determining whether the proposed rule, amendment to a rule, or repeal of a rule is within the statutory authority upon which it is based, whether the rule, amendment to a rule or repeal of a rule is in proper form and whether the notice was given prior to its adoption, amendment, or repeal and was sufficient to give adequate notice of the purpose and effect of the rule, amendment or repeal. In addition, the Joint Committee may consider whether the agency has considered alternatives to the rule which are consistent with the stated objectives of both the applicable statutes and regulations, and whether the rule is designed to minimize economic impact on small businesses.

(b) If the Joint Committee objects to a proposed rule, amendment to a rule, or repeal of a rule, it shall certify the fact to the issuing agency and include with the certification a statement of its specific objections.

(c) If within 45 days after notice of proposed rulemaking has been received by the Joint Committee, the Joint Committee certifies its objections to the issuing agency then that agency shall within 90 days of receipt of the statement of objection:

1. modify the proposed rule, amendment or repealer to meet the Joint Committee's objections;
2. withdraw the proposed rule, amendment, or repealer in its entirety, or;
3. refuse to modify or withdraw the proposed rule, amendment or repealer.

(d) If an agency elects to modify a proposed rule, amendment or repealer to meet the Joint Committee's objections, it shall make such modifications as are necessary to meet the objections and shall resubmit the rule, amendment or repealer to the Joint Committee. In addition, the agency shall submit a notice of its election to modify the proposed rule, amendment or repealer to meet the Joint Committee's objections to the Secretary of State, which notice shall be published in the first available issue of the Illinois Register, but the agency shall not be required to conduct a public hearing. If the Joint Committee determines that the modifications do not remedy the Joint Committee's objections, it shall so notify the agency in writing and shall submit a copy of such notification to the Secretary of State for publication in the next available issue of the Illinois Register. In addition, the Joint Committee may recommend legislative action as provided in subsection (g) for agency refusals.

(e) If an agency elects to withdraw a proposed rule, amendment or repealer as a result of the Joint Committee's objections, it shall notify the Joint Committee, in writing, of its election and shall submit a notice of the withdrawal to the Secretary of State which shall be published in the next available issue of the Illinois Register.

(f) Failure of an agency to respond to the Joint Committee's objections to a proposed rule, amendment or repealer, within the time prescribed in subsection (c) shall constitute withdrawal of the proposed rule, amendment or repealer in its entirety. The Joint Committee shall submit a notice to that effect to the Secretary of State which shall be published in the next available issue of the Illinois Register and the Secretary of State shall refuse to accept for filing a certified copy of such proposed rule, amendment or repealer under the provisions of Section 6.

(g) If an agency refuses to modify or withdraw the proposed rule, amendment or repealer so as to remedy an objection stated by the Joint Committee, it shall notify the Joint Committee in writing of its refusal and shall submit a notice of refusal to the Secretary of State which shall be published in the next available issue of the Illinois Register. If the Joint Committee decides to recommend legislative action

in response to an agency refusal, then the Joint Committee shall have drafted and have introduced into either house of the General Assembly appropriate legislation to implement the recommendations of the Joint Committee.

(h) No rule, amendment or repeal of a rule shall be accepted by the Secretary of State for filing under Section 6, if such rule-making is subject to this Section, until after the agency has responded to the objections of the Joint Committee as provided in this Section.

(i) The Joint Committee shall evaluate and analyze all State forms which have been developed or revised after the effective date of this amendatory Act of 1984 to ascertain the burden, if any, of complying with such forms by small businesses. Such evaluation and analysis shall occur during the Joint Committee's review conducted pursuant to Section 7.08 of this Act. In the event the Joint Committee determines that any such form is unduly burdensome to small businesses the Joint Committee may object to such form or make specific recommendations for change in such form. Objections to such forms shall be made in the manner prescribed in Section 7.07 of this Act. For the purposes of this subsection the terms "state form" and "form" shall mean any document or piece of paper used by a state agency requesting or transmitting information, printed or reproduced by whatever means, usually with blank spaces for the entry of additional information to be used in any transaction between the State of Illinois and private sector businesses. These include but are not limited to grant applications, licensing applications, permit applications, and request for proposal applications, but do not include books, pamphlets, newsletters and intra-agency forms which do not affect the rights of or procedures available to persons or entities outside the State agency. (Added by PA 80-1035, effective September 27, 1977; Amended by PA 81-1044, effective October 1, 1979; Amended by PA 83-1341, effective September 7, 1984)

Section 7.06a. JOINT COMMITTEE STATEMENT ON PROPOSED RULE, AMENDMENT OR REPEALER OBJECTIONABLE UNDER COMMITTEE'S REVIEW STANDARDS) (a) If the Joint Committee determines that adoption and effectiveness of a proposed rule, amendment or repealer or portion of a proposed rule, amendment or repealer by an agency would be objectionable under any of the standards for the Joint Committee's review specified in Sections 7.04, 7.05, 7.06, 7.07 or 7.08 of this Act and would constitute a serious threat to the public interest, safety or welfare, the Joint Committee may at any time prior to the taking effect of such proposed rule, amendment or repealer issue a statement to that effect. Such statement may be issued by the Joint Committee only upon the affirmative vote of three-fifths of the members appointed to the Joint Committee. A certified copy of such statement shall be transmitted to the proposing agency and to the Secretary of State for publication in the next available issue of the Illinois Register.

(b) The proposed rule, amendment or repealer or the portion of the proposed rule, amendment or repealer to which the Joint Committee has issued a statement under subsection (a) shall not be accepted for filing by the Secretary of State nor take effect for at least 180 days

from receipt of the statement by the Secretary of State. The agency may not enforce or invoke for any reason a proposed rule, amendment or repealer or any portion thereof which is prohibited from being filed by this subsection during this 180 day period.

(c) The Joint Committee shall, as soon as practicable after the issuance of a statement under subsection (a), introduce in either house of the General Assembly a Joint resolution stating that the General Assembly desires to continue the prohibition of the proposed rule, amendment or repealer or the portion thereof to which the statement was issued from being filed and taking effect. The joint resolution shall immediately following its first reading be placed on the calendar for consideration in each house of the General Assembly without reference to a standing committee. If such a joint resolution is passed by both houses of the General Assembly within the 180 day period provided in subsection (b), the agency shall be prohibited from filing the proposed rule, amendment or repealer or the portion thereof and the proposed rule, amendment or repealer or the portion thereof shall not take effect. The Secretary of State shall not accept for filing the proposed rule, amendment or repealer or the portion thereof which the General Assembly has prohibited the agency from filing as provided in this subsection. If the 180 day period provided in subsection (b) expires prior to passage of the joint resolution, the agency may file the proposed rule, amendment or repealer or the portion thereof as adopted and it shall take effect. (Added by PA 81-1514, effective January 1, 1981; Amended by PA 82-372, effective September 2, 1981)

Section 7.07. EXAMINATION OF RULE BY THE JOINT COMMITTEE - DETERMINATION) (a) The Joint Committee may examine any rule for the purpose of determining whether the rule is within the statutory authority upon which it is based, and whether the rule is in proper form.

(b) If the Joint Committee objects to a rule, it shall, within 5 days of the objection, certify the fact to the adopting agency and include within the certification a statement of its specific objections.

(c) Within 90 days of receipt of the certification, the agency shall:

1. Notify the Joint Committee that it has elected to amend the rule to meet the Joint Committee's objection;
2. Notify the Joint Committee that it has elected to repeal the rule, or;
3. Notify the Joint Committee that it refuses to amend or repeal the rule.

(d) If the agency elects to amend a rule to meet the Joint Committee's objections, it shall notify the Joint Committee in writing and shall initiate rule-making procedures for that purpose by giving notice as required by Section 5 of this Act. The Joint Committee shall give priority to rules so amended when setting its agenda.

(e) If the agency elects to repeal a rule as a result of the Joint Committee objections, it shall notify the Joint Committee, in writing, of

its election and shall initiate rule-making procedures for that purpose by giving notice as required by Section 5 of this Act.

(f) If the agency elects to amend or repeal a rule as a result of the Joint Committee objections, it shall complete the process within 160 days after giving notice in the Illinois Register.

(g) Failure of the agency to respond to the Joint Committee's objections to a rule within the time prescribed in subsection (c) shall constitute a refusal to amend or repeal the rule.

(h) If an agency refuses to amend or repeal a rule so as to remedy an objection stated by the Joint Committee, it shall notify the Joint Committee in writing of its refusal and shall submit a notice of refusal to the Secretary of State which shall be published in the next available issue of the Illinois Register. If the Joint Committee, in response to an agency refusal, decides to recommend legislative action, then the Joint Committee shall have drafted and have introduced into either house of the General Assembly appropriate legislation to implement the recommendations of the Joint Committee. (Added by PA 80-1035, effective September 27, 1977; Amended by PA 81-1044, effective October 1, 1979)

Section 7.07a. JOINT COMMITTEE STATEMENT ON RULE ADOPTED UNDER SECTIONS 5.02 OR 5.03 AND DEEMED OBJECTIONABLE UNDER COMMITTEE'S REVIEW STANDARDS) (a) If the Joint Committee determines that a rule or portion of a rule adopted under Sections 5.02 or 5.03 of this Act is objectionable under any of the standards for the Joint Committee's review specified in Sections 7.04, 7.05, 7.06, 7.07, or 7.08 of this Act and constitutes a serious threat to the public interest, safety or welfare, the Joint Committee may issue a statement to that effect. Such statement may be issued by the Joint Committee only upon the affirmative vote of three-fifths of the members appointed to the Joint Committee. A certified copy of such statement shall be transmitted to the affected agency and to the Secretary of State for publication in the next available issue of the Illinois Register.

(b) The effectiveness of the rule or the portion of a rule shall be suspended immediately for at least 180 days upon receipt of the certified statement by the Secretary of State. The Secretary of State shall indicate such suspension prominently and clearly on the face of the affected rule or the portion of a rule filed in the Office of the Secretary of State. Rules or portions of rules suspended in accordance with this subsection shall become effective again upon the expiration of 180 days from receipt of the statement by the Secretary of State if the General Assembly does not continue the suspension as provided in subsection (c). The agency may not enforce, nor invoke for any reason, a rule or portion of a rule which has been suspended in accordance with this subsection. During the 180 day period, the agency may not file, nor may the Secretary of State accept for filing, any rule having substantially the same purpose and effect as rules or portions of rules suspended in accordance with this subsection.

(c) The Joint Committee shall, as soon as practicable after issuance of a statement under subsection (a), cause to be introduced in

either house of the General Assembly a joint resolution stating that the General Assembly desires to continue the suspension of effectiveness of a rule or the portion of the rule to which the statement was issued. The joint resolution shall immediately following its first reading be placed on the calendar for consideration in each house of the General Assembly without reference to a standing committee. If such a joint resolution is passed by both houses of the General Assembly within the 180 day period provided in subsection (b), the rule or the portion of the rule shall be considered repealed and the Secretary of State shall immediately remove such rule or portion of a rule from the collection of effective rules. (Added by PA 81-1514, effective January 1, 1981; Amended by PA 82-372, effective September 2, 1981)

Section 7.08. PERIODIC EVALUATION OF RULES BY JOINT COMMITTEE - CATEGORIES) (a) The Joint Committee shall evaluate the rules of each agency at least once every 5 years. The Joint Committee, by rule shall develop a schedule for this periodic evaluation. In developing this schedule, the Joint Committee shall group rules by specified areas to assure the evaluation of similar rules at the same time. Such schedule shall include at least the following categories:

1. human resources;
2. law enforcement;
3. energy;
4. environment;
5. natural resources;
6. transportation;
7. public utilities;
8. consumer protection;
9. licensing laws;
10. regulation of occupations;
11. labor laws;
12. business regulation;
13. financial institutions; and
14. government purchasing.

(b) Whenever evaluating any rules as required by this Section the Joint Committee's review shall include an examination of:

1. organizational, structural and procedural reforms which effect rules or rulemaking;
2. merger, modification, establishment or abolition of regulations;
3. eliminating or phasing out outdated, overlapping or conflicting regulatory jurisdictions or requirements of general applicability; and
4. economic and budgetary effects. (Added by PA 80-1035, effective September 27, 1977; Amended by PA 81-1035, effective October 1, 1979)

Section 7.09. ADMINISTRATION OF ACT) The Joint Committee shall have the authority to adopt rules to administer the provisions of this Act relating to the Joint Committee's responsibilities, powers and duties. (Added by PA 80-1035, effective September 27, 1977)

Section 7.10. REPORT OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS BY THE JOINT COMMITTEE) The Joint Committee shall report its findings, conclusions and recommendations including suggested legislation to the General Assembly by February 1, of each year.

The requirement for reporting to the General Assembly shall be satisfied by filing copies of the report with the Speaker, the Minority Leader and the Clerk of the House of Representatives and the President, the Minority Leader and the Secretary of the Senate and the Legislative Council, as required by Section 3.1 of "An Act to revise the law in relation to the General Assembly", approved February 25, 1874, as amended, and filing such additional copies with the State Government Report Distribution Center for the General Assembly as is required under paragraph (t) of Section 7 of the State Library Act. (Added by PA 80-1035, effective September 27, 1977; Amended by PA 83-784, effective January 1, 1984)

Section 8. PETITION FOR ADOPTION OF RULES) (a) An agency shall, in accordance with Section 5, adopt rules which implement recently enacted legislation of the General Assembly in a timely and expeditious manner.

(b) Any interested person may petition an agency requesting the promulgation, amendment or repeal of a rule. Each agency shall prescribe by rule the form for petitions and the procedure for their submission, consideration and disposition. If, within 30 days after submission of a petition, the agency has not initiated rule-making proceedings in accordance with Section 5 of this Act, the petition shall be deemed to have been denied. (PA 79-1083; Amended by PA 83-529, effective January 1, 1984)

Section 9. DECLARATORY RULINGS BY AGENCIES) Each agency may in its discretion provide by rule for the filing and prompt disposition of petitions or requests for declaratory rulings as to the applicability to the person presenting the petition or request of any statutory provision enforced by the agency or of any rule of the agency. Declaratory rulings shall not be appealable. The agency shall maintain as a public record in the agency's principal office and make available for public inspection and copying any such rulings. The agency shall delete trade secrets or other confidential information from the ruling prior to making it available. (PA 79-1083; Amended by PA 82-727, effective November 12, 1981)

Section 10. CONTESTED CASES - NOTICE - HEARING) (a) In a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice. Such notice shall be served personally or by certified or registered mail upon such parties or their agents appointed to receive service of process and shall include:

1. a statement of the time, place and nature of the hearing;
2. a statement of the legal authority and jurisdiction under which the hearing is to be held;
3. a reference to the particular Sections of the statutes and rules involved; and

4. except where a more detailed statement is otherwise provided for by law, a short and plain statement of the matters asserted.

(b) Opportunity shall be afforded all parties to be represented by legal counsel, and to respond and present evidence and argument.

(c) Unless precluded by law, disposition may be made of any contested case by stipulation, agreed settlement, consent order or default. (PA 79-1083)

Section 11. RECORD IN CONTESTED CASES) (a) The record in a contested case shall include:

1. all pleadings (including all notices and responses thereto), motions and rulings;
2. evidence received;
3. a statement of matters officially noticed;
4. offers of proof, objections and rulings thereon;
5. proposed findings and exceptions;
6. any decision, opinion or report by the hearing examiner;
7. all staff memoranda or data submitted to the hearing examiner or members of the agency in connection with their consideration of the case; and
8. any communication prohibited by Section 15 of this Act, but such communications shall not form the basis for any finding of fact.

(b) Oral proceedings or any part thereof shall be recorded stenographically or by such other means as to adequately insure the preservation of such testimony or oral proceedings and shall be transcribed on request of any party.

(c) Findings of fact shall be based exclusively on the evidence and on matters officially noticed. (PA 79-1083; Amended by PA 82-783, effective July 13, 1982)

Section 12. RULES OF EVIDENCE - OFFICIAL NOTICE) In contested cases: (a) Irrelevant, immaterial or unduly repetitious evidence shall be excluded. The rules of evidence and privilege as applied in civil cases in the Circuit Courts of this State shall be followed. However, evidence not admissible under such rules of evidence may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, any part of the evidence may be received in written form.

(b) Subject to the evidentiary requirements of subsection (a) of this Section, a party may conduct cross-examination required for a full and fair disclosure of the facts.

(c) Notice may be taken of matters of which the Circuit Courts of this State may take judicial notice. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's

specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence. (PA 79-1083)

Section 13. PROPOSAL FOR DECISION) Except where otherwise expressly provided by law, when in a contested case a majority of the officials of the agency who are to render the final decision has not heard the case or read the record, the decision, if adverse to a party to the proceeding other than the agency, shall not be made until a proposal for decision is served upon the parties, and an opportunity is afforded to each party adversely affected to file exceptions and to present a brief and, if the agency so permits, oral argument, to the agency officials who are to render the decision. The proposal for decision shall contain a statement of the reasons therefor and of each issue of fact or law necessary to the proposed decision, prepared by the persons who conducted the hearing or one who has read the record. (PA 79-1083)

Section 14. DECISIONS AND ORDERS) A final decision or order adverse to a party (other than the agency) in a contested case shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency rules, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. Parties or their agents appointed to receive service of process shall be notified either personally or by registered or certified mail of any decision or order. Upon request, a copy of the decision or order shall be delivered or mailed forthwith to each party and to his attorney of record.

A decision by any agency in a contested case under this Act shall be void unless the proceedings are conducted in compliance with the provisions of this Act relating to contested cases except to the extent such provisions are waived pursuant to Section 18 of this Act and except to the extent the agency has adopted its own rules for contested cases as authorized in Section 2 of this Act. (PA 79-1083; Amended by PA 80-1035, effective September 27, 1977)

Section 14.1 EXPENSES - ATTORNEY FEES) (a) In any contested case initiated by any agency which does not proceed to court for judicial review and on any issue where a court does not have jurisdiction to make an award of litigation expenses under Section 42.611 of the Civil Practice Law, any allegation made by the agency without reasonable cause and found to be untrue shall subject the agency making such allegation to the payment of the reasonable expenses, including reasonable attorney's fees, actually incurred in defending against that allegation by the party against whom the case was initiated.

The claimant shall make his demand for such expenses to the agency. If the claimant is dissatisfied because of the agency's failure to make any award or because of the insufficiency of the agency's award, the claimant may petition the Court of Claims for the amount deemed owed. If allowed any recovery by the Court of Claims, the claimant shall also be entitled to reasonable attorney's fees and the reasonable expenses incurred in making his claim for the expenses incurred in the administrative action.

(b) In any case in which a party has any administrative rule invalidated by a court for any reason, including but not limited to the agency's exceeding its statutory authority or the agency's failure to follow statutory procedures in the adoption of the rule, the court shall award the party bringing the action the reasonable expenses of the litigation, including reasonable attorney's fees. (Added by PA 82-670, effective January 1, 1982; Amended by PA 82-1057, effective February 11, 1983)

Section 15. EX PARTE CONSULTATIONS) Except in the disposition of matters which they are authorized by law to entertain or dispose of on an ex parte basis, neither agency members, employees nor hearing examiners shall, after notice of hearing in a contested case or licensing to which the procedures of a contested case apply under this Act, communicate, directly or indirectly, in connection with any issue of fact, with any person or party, or in connection with any other issue with any party or his representative, except upon notice and opportunity for all parties to participate. However, an agency member may communicate with other members of the agency, and an agency member or hearing examiner may have the aid and advice of one or more personal assistants. (PA 79-1063; Amended by PA 80-1035, effective September 27, 1977)

Section 16. LICENSES) (a) When any licensing is required by law to be preceded by notice and opportunity for hearing, the provisions of this Act concerning contested cases shall apply.

(b) When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license shall continue in full force and effect until the final agency decision on the application has been made unless a later date is fixed by order of a reviewing court.

(c) No agency shall revoke, suspend, annul, withdraw, amend materially, or refuse to renew any valid license without first giving written notice to the licensee of the facts or conduct upon which the agency will rely to support its proposed action, and an opportunity for hearing in accordance with the provisions of this Act concerning contested cases. At any such hearing, the licensee shall have the right to show compliance with all lawful requirements for the retention, or continuation or renewal of the license. If, however, the agency finds that the public interest, safety or welfare imperatively requires emergency action, and if the agency incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action which proceedings shall be promptly instituted and determined.

Any application for renewal of a license which contains required and relevant information, data, material or circumstances which were not contained in an application for the existing license, shall be subject to the provisions of Section 16(a) of this Act. (PA 79-1083; Amended by PA 80-1035, effective September 27, 1977)

Section 17. RATE-MAKING) Every agency which is empowered by law to engage in rate-making activities shall establish by rule, not inconsistent with the provisions of law establishing such rate-making jurisdiction, the practice and procedure to be followed in rate-making activities before such agency. (PA 79-1083)

Section 18. WAIVER) Compliance with any or all of the provisions of this Act concerning contested cases may be waived by written stipulation of all parties. (PA 79-1083)

Section 19. (PA 79-1083; Repealed as of January 1, 1978, by PA 80-1035, effective September 27, 1977)

Section 20. SEVERABILITY) If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are severable. (PA 79-1083)

Section 21. EFFECTIVE DATE) This Act takes effect upon its becoming a law. (PA 79-1083, effective September 22, 1975)

TITLE 1: GENERAL PROVISIONS
CHAPTER II: JOINT COMMITTEE ON ADMINISTRATIVE RULES

PART 210
GENERAL POLICIES

Section

210.100	Definitions
210.200	Committee Function
210.300	Consultation with Agencies
210.400	Cooperation with the Rules Division
210.450	Publication of Notice and Hearing Dates
210.500	Use of Subpoenas

AUTHORITY: Implementing Sections 5.01 and 7.02 - 7.10 and authorized by Section 7.09 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1979, ch. 127, pars. 1005.01, 1007.02 - 1007.10 and 1007.09).

SOURCE: Adopted at 3 Ill. Reg. 8, p. 18, effective April 1, 1979; amended at 3 Ill. Reg. 49, p. 230, effective December 10, 1979; rules repealed, new rules adopted and codified at 4 Ill. Reg. 49, p. 166, effective December 1, 1980; amended at 6 Ill. Reg. 9314, effective August 1, 1982.

Section 210.100 Definitions

As used in these rules (Parts 210 through 260):

"Act" means the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1979, ch. 127, par. 1001 et. seq., as amended).

"Committee" means the Joint Committee on Administrative Rules, created by Section 7.02(a) of the Act.

"Director" means the Executive Director of the Committee.

"Register" means the Illinois Register which is published weekly by the Secretary of State. It contains notices and the text of all proposed and adopted rules.

"Rules Division" means the unit in the office of the Secretary of State which files rules and publishes the Register.

Section 210.200 Committee Function

The committee will fulfill its function of *promoting adequate and proper rules by agencies and understanding on the part of the public respecting such rules* and its responsibility to review rules and rulemaking. It will seek to cooperate with agencies as much as possible. It will conduct its hearings to promote full and open discussion of rules and rulemaking. This policy is meant to implement the spirit as well as the letter of the Act.

Section 210.300 Consultation with Agencies

Some agencies may have some problems implementing or complying with the rulemaking procedures of the Act. The Committee and its staff will discuss these types of problems with agencies. Such

consultation will be used to advise agencies about form, statutory authority, or other matters which are considered by the Committee in its review of rules and rulemaking.

Section 210.400 Cooperation with the Rules Division

The Rules Division has the functions under the Act of filing rules and of publishing the Register. The Committee will cooperate fully with the Rules Division. The Committee will strive to establish a good working relationship with the Rules Division to insure a smooth and efficient rulemaking process. The Committee's procedures will be coordinated with the Rules Division's "Rules on Rules" (see 1 Ill. Adm. Code 160).

Section 210.450 Publication of Notice and Hearing Dates

The Committee shall each week submit for publication in the Register a list of the second notices received during the preceding week. The list will include the date on which the notice was received and the date of the meeting at which the Committee intends to consider the proposed rulemaking. The list is intended only to inform the public and shall not preclude the Committee from considering or acting on the rulemaking at a different hearing. The Committee shall try to give reasonable notice of any change in the date of its intended consideration of rules to the affected agencies.

(Source: Added at 6 Ill. Reg. 9314, effective August 1, 1982)

Section 210.500 Use of Subpoenas

- a) The Committee is granted subpoena power by Section 7.02(b) of the Act. This power will be used only when an agency refuses:
 - 1) To appear before a Committee hearing.
 - 2) To provide information which is essential to the Committee's functions.
 - 3) To produce records or documents known to exist which are essential to the Committee's functions.
- b) Prior to the use of its subpoena power, the Committee will:
 - 1) Notify the agency head of the refusal and the fact that a subpoena may be used.
 - 2) Allow the agency to present its reasons for the refusal.
- c) The Director will issue a subpoena only when approved by all of the officers of the Committee or by a vote of the Committee.

TITLE I: GENERAL PROVISIONS
CHAPTER II: JOINT COMMITTEE ON ADMINISTRATIVE RULES

PART 220
REVIEW OF PROPOSED RULEMAKING

Section	
220.1	Definitions (Renumbered)
220.2	Preliminary Review (Renumbered)
220.3	Request for Economic Analysis (Renumbered)
220.4	Format of Economic Analysis (Renumbered)
220.5	Second Notice: Required Information (Renumbered)
220.6	Second Notice: Additional Information (Renumbered)
220.7	Staff Review (Renumbered)
220.8	Committee Hearing (Renumbered)
220.9	Criteria for Review (Renumbered)
220.10	Objection; Notice of No Objection (Renumbered)
220.11	Certification of Objection; Statement of Specific Objections (Renumbered)
220.12	Response to Objection: Deadline, Format (Renumbered)
220.13	Response to Objection: Manner (Renumbered)
220.14	Review of Response to Objection (Renumbered)
220.15	Failure to Respond (Renumbered)
220.16	Limit of Substantive Changes (Renumbered)
220.17	Recommend Legislation (Renumbered)
220.100	Definitions
220.200	Preliminary Review
220.250	Committee Request for Agency Hearing
220.300	Request for Economic Analysis
220.400	Format of Economic Analysis
220.500	Second Notice: Required Information
220.600	Second Notice: Additional Information
220.700	Staff Review
220.800	Committee Hearing
220.900	Criteria for Review
220.950	Filing Prohibition Criteria
220.1000	Objection; Filing Prohibition; Notice of No Objection
220.1100	Certification of Objection; Statement of Specific Objections
220.1200	Response to Objection: Deadline, Format
220.1300	Response to Objection: Manner
220.1350	Certification of Filing Prohibition; Statement of Specific Objections
220.1400	Review of Response to Objection
220.1500	Failure to Respond
220.1600	Limit of Substantive Changes
220.1700	Recommend Legislation

AUTHORITY: Implementing Sections 4.03, 5.01, 7.06 and 7.06a and authorized by Section 7.09 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1979, ch. 127, pars. 1004.03, 1005.01, 1007.06, 1007.06a, 1007.09).

SOURCE: Adopted at 3 Ill. Reg. 8, p. 18, effective April 1, 1979; amended at 3 Ill. Reg. 49, p. 230, effective December 10, 1979; rules repealed, new rules adopted and codified at 4 Ill. Reg. 49, p. 166, effective December 1, 1980; amended at 5 Ill. Reg. 5164, effective May 15, 1981; amended at 6 Ill. Reg. 9314, effective August 1, 1982.

Section 220.1 Definitions (Renumbered)

(Source: Section 220.1 renumbered to Section 220.100 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.2 Preliminary Review (Renumbered)

(Source: Section 220.2 renumbered to Section 220.200 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.3 Request for Economic Analysis (Renumbered)

(Source: Section 220.3 renumbered to Section 220.300 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.4 Format of Economic Analysis (Renumbered)

(Source: Section 220.4 renumbered to Section 220.400 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.5 Second Notice: Required Information (Renumbered)

(Source: Section 220.5 renumbered to Section 220.500 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.6 Second Notice: Additional Information (Renumbered)

(Source: Section 220.6 renumbered to Section 220.600 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.7 Staff Review (Renumbered)

(Source: Section 220.7 renumbered to Section 220.700 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.8 Committee Hearing (Renumbered)

(Source: Section 220.8 renumbered to Section 220.800 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.9 Criteria for Review (Renumbered)

(Source: Section 220.9 renumbered to Section 220.900 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.10 Objection; Notice of No Objection (Renumbered)

(Source: Section 220.10 renumbered to Section 220.1000 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.11 Certification of Objection; Statement of Specific Objections (Renumbered)

(Source: Section 220.11 renumbered to Section 220.1100 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.12 Response to Objection: Deadline, Format (Renumbered)

(Source: Section 220.12 renumbered to Section 220.1200 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.13 Response to Objection: Manner (Renumbered)

(Source: Section 220.13 renumbered to Section 220.1300 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.14 Review of Response to Objection (Renumbered)

(Source: Section 220.14 renumbered to Section 220.1400 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.15 Failure to Respond (Renumbered)

(Source: Section 220.15 renumbered to Section 220.1500 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.16 Limit of Substantive Changes (Renumbered)

(Source: Section 220.16 renumbered to Section 220.1600 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.17 Recommend Legislation (Renumbered)

(Source: Section 220.17 renumbered to Section 220.1700 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.100 Definitions

As used in this part:

"First notice" means the notice of proposed rulemaking which must be given to the public by agencies pursuant to Section 5.01(a) of the Act. This notice is published in the Register.

"First notice period" means the period of time for public comment which begins on the day the first notice appears in the Register. This period must be at least 45 days in length.

"Second notice" means the notice of proposed rulemaking which must be given by agencies to the Committee pursuant to Section 5.01(b) of the Act. This notice must contain the information required by Section 220.500 of this part and should also contain the information requested by Section 220.600 of this part.

"Second notice period" means that period of time established by the Act for Committee review of proposed rulemaking. This period must follow the end of the first notice period. It commences on the day the second notice is received by the Committee and will not be more than 45 days in length.

(Source: Section 220.100 renumbered from Section 220.1 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.200 Preliminary Review

In the first five days after the first notice, the agency may request in writing that the Committee conduct an informal review of the agency's proposed rulemaking. When such a review is made, the Committee staff will review the proposed rulemaking, including the notice and the text. The Committee staff may raise questions or problems as a result of its review, and will discuss these questions or problems with the agency. This review will be based on the criteria in Section 220.900 and Section 220.950. Such review will be in addition to the normal review which is discussed in Sections 220.500 and 220.700.

(Source: Section 220.200 renumbered from Section 220.2 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.250 Committee Request for Agency Hearing

In the first 14 days after the first notice, the Committee or its Chairman may ask the agency to hold a public hearing on the proposed rulemaking. This request will be made in writing by the Director. Such a request may be made if the Chairman or the Committee *finds that a public hearing would make it easier for persons or groups to submit views and comments that might not otherwise be submitted* and instructs the Director to make such a request.

(Source: Added at 6 Ill. Reg. 9314, effective August 1, 1982)

Section 220.300 Request for Economic Analysis

In the first 30 days after the first notice, the Committee may request from the agency *an analysis of the economic and budgetary effects of the proposed rulemaking*. This request will be made in writing by the Director. The request will be made in each case unless it is clear that the effects in the areas outlined in the next section will not be substantial. The Committee will consider the information in the first notice and other available information in deciding whether or not to make this request.

(Source: Section 220.300 renumbered from Section 220.3 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.400 Format of Economic Analysis

If the Committee requests an analysis of the economic effects of the proposed rulemaking, the agency shall submit the analysis in writing to the Committee as part of the second notice. The analysis shall be in the form shown in Illustration A. It must include a discussion of at least these factors and an estimate of the effects of each factor in dollars:

- a) *Any direct economic effect on the persons who will be regulated by the rule.*
- b) *Any effect on the agency's budget.*
- c) *Any effect on the budgets of other State agencies.*
- d) *Any effect on State revenue.*

(Source: Section 220.400 renumbered from Section 220.4 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.500 Second Notice: Required Information

- a) *The second notice period will start on the day the second notice is received by the Committee. It will end 45 days later unless prior to that time the agency receives either:*
 - 1) *A statement of objection from the Committee. The agency may not adopt the rulemaking in this case until after it responds to the objection.*
 - 2) *A notice from the Committee stating that no objection will be issued.*
- b) The second notice must contain at least the following information:
 - 1) The name of the agency.
 - 2) The title of the proposed rulemaking.
 - 3) The date of the first notice.

- 4) *The text and location of any changes made in the rule during the first notice period.*
 - 5) *A final regulatory flexibility analysis, which shall include the following:*
 - A) *A summary of the issues raised by small businesses during the first notice period.*
 - B) *A description of actions taken on any alternatives to the proposed rule suggested by small businesses during the first notice period, including reasons for rejecting any alternatives not utilized.*
 - 6) *If requested by the Committee as provided in Section 220.300, an analysis of the economic and budgetary effects of the proposed rulemaking.*
 - 7) *A response to any recommendations made by the State Library for changes in the rules to make them comply with the codification scheme.*
 - 8) *The name of the person who will respond to Committee questions regarding the proposed rulemaking for the agency.*
- c) The second notice should be clearly identified as such, and shall be submitted to the Director at the following address:
- Joint Committee on Administrative Rules
509 South Sixth Street, Room 500
Springfield, Illinois 62701
- d) In two working days after the receipt by the Committee of a second notice, the Committee will notify the Rules Division and the agency of the date on which the second notice period started. Notices which do not contain all of the information required by this section and by Section 5.01(b) of the Act will not be accepted by the Committee. An agency which submits such a notice will be informed in writing of the specific reasons the notice was not accepted.

(Source: Amended at 6 Ill. Reg. 9314, effective August 1, 1982)

Section 220.600 Second Notice: Additional Information

The agency should include the following information in the second notice at the time it is sent to the Committee. These items are in addition to the items which must be included in the second notice under Section 220.500.

- a) *An evaluation of all of the comments on the proposed rulemaking received by the agency from interested persons during the first notice period. This evaluation should not include any questions raised by the Committee in a preliminary review (see Section 220.200). This evaluation should include:*
 - 1) *The date of any public hearing held during the first notice period and, if the hearing was held in response to a request for a hearing, the name of the person or group which made the request.*

- 2) A list of all of the persons and groups which made comments or which requested the opportunity to make comments.
 - 3) A list of all of the specific criticisms and suggestions which were raised in the comments.
 - 4) The agency's evaluation of each of the specific criticisms and suggestions.
 - 5) A statement that the agency has considered all of the comments which were received during the first notice period.
- b) *An analysis of the expected effects of the proposed rulemaking*, which should include at least these items:
- 1) Impact on the public.
 - 2) Changes in the agency's programs or structure which will result from the rule.
- c) Where the agency's proposed rule or amendment to an existing rule may have an impact on small business, a brief statement describing the methods used by the agency to comply with Section 4.03 of the Act.
- d) *A justification and rationale for the proposed rulemaking*, which should include at least these items:
- 1) Changes in statutory language which require the rulemaking.
 - 2) Changes in agency policy, procedures, or structure which require the rulemaking.
 - 3) Other rules and proposed rules of the agency, which relate to the rulemaking.
 - 4) Federal laws, rules, or funding requirements, which may affect the rulemaking.
 - 5) Court orders or rulings which relate to the rulemaking.

(Source: Amended at 6 Ill. Reg. 9314, effective August 1, 1982)

Section 220.700 Staff Review

The Committee staff will review each second notice which is received as provided in Section 220.500. The items outlined in Section 220.600 will be included in the review. This staff review will be based on the criteria in Section 220.900 and Section 220.950. The staff may raise questions or problems as a result of its review and will discuss these questions or problems with the agency. The staff will report the results of its review to the Committee, and may develop a recommendation for action by the Committee. The staff may recommend that the Committee issue an objection, prohibit filing of the rulemaking, develop legislation, take some other action, or take no action. Such staff recommendations shall be advisory only and shall not limit the Committee's power to take some other action. In order to encourage full and open discussion of proposed rulemaking, the staff will try to insure that the agency is aware of the substance of such recommendations prior to the hearing.

(Source: Section 220.700 renumbered from Section 220.7 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.300 Committee Hearing

The Committee will hold full and open hearings at least once each month on proposed rulemaking. The agenda for each hearing will be published as soon as possible prior to the hearing in the Register. Oral testimony will be taken at the hearing from the agency. Written comments will be considered from persons or groups which are affected by the rules as they relate to the criteria in Section 220.900 or Section 220.950. Such written comments should be sent to the Director at the following address:

Joint Committee on Administrative Rules
509 South Sixth Street, Room 500
Springfield, Illinois 62701

Comments should be received at least three working days prior to the hearing. The Committee will provide a copy of such comments to the agency, unless the person or group requests that a copy of the comments not be provided to the agency.

(Source: Amended at 6 Ill. Reg. 9314, effective August 1, 1982)

Section 220.900 Criteria for Review

The Committee will consider these criteria in its review of each proposed rulemaking:

- a) Substantive
 - 1) Is there legal authority for each part of the rulemaking?
 - 2) Does each part of the rulemaking comply with the statutory authority and legislative intent on which it is based, or which it is implementing or interpreting?
 - 3) Does each part of the rulemaking comply with state and federal constitutions, state and federal law, and case law?
 - 4) Does it include adequate standards for the exercise of each discretionary power which is discussed in the rulemaking?
- b) Propriety
 - 1) Is there an adequate justification and rationale for the rulemaking and for any regulation of the public embodied in the rules?
 - 2) Has the agency reasonably considered the economic and budgetary effects of the rulemaking as well as less costly alternatives?
 - 3) Is the language of the rules simple and clear, so that the rules can be understood by the persons and groups which they will affect?
 - 4) Are the rules free of serious technical errors, redundancies and grammatical or typographical errors, which could affect the meaning of the rules?
- c) Procedural
 - 1) Does it comply with Section 5.01 of the Act?
 - 2) Does it comply with the requirements of the Rules Division (see 1 Ill. Adm. Code 160)?

- 3) Does it comply with any additional requirements which have been imposed on the agency by state or federal law?
- 4) Does it comply with the agency's own rules for its rulemaking process?
- 5) Was the agency responsive to public comments which were made on the rulemaking?
- 6) Did the agency comply with Section 4.03 of the Act, if applicable, in connection with the rulemaking?

(Source: Amended at 6 Ill. Reg. 9314, effective August 1, 1982)

Section 220.950 Filing Prohibition Criteria

If the Committee finds that the proposed rulemaking does not meet one or more of the criteria in Section 220.900, the Committee will then consider the following criteria:

- a) Is the rulemaking *a serious threat to the public interest*? In considering this question, the Committee will examine:
 - 1) Whether the rulemaking contains significant policies which have been rejected by the General Assembly in a proposed bill.
 - 2) Whether the rulemaking unconstitutionally or unlawfully discriminates against any citizens of the state.
 - 3) Whether the rulemaking unconstitutionally or unlawfully inhibits the free exercise of the rights of citizens of the state.
- b) Is the rulemaking *a serious threat to the public safety*? In considering this question, the Committee will examine:
 - 1) Whether the rulemaking could result in a significant decrease in the protection provided against threats to the safety of the citizens of the state.
 - 2) Whether the rulemaking could result in a significant increase in the threat of physical harm to the citizens of the state.
- c) Is the rulemaking *a serious threat to public welfare*? In considering this question, the Committee will examine:
 - 1) Whether the rulemaking imposes significant unreasonable or unnecessary economic costs on citizens of the state.
 - 2) Whether the rulemaking would adversely affect the health or well-being of the citizens of the state.
 - 3) Whether the rulemaking would significantly and adversely affect the quality of life of the citizens of the state.

(Source: Added at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.1000 Objection; Filing Prohibition; Notice of No Objection

- a) If the Committee finds that the proposed rulemaking does not meet one or more of the criteria in Section 220.900, *the Committee will object to the proposed rulemaking.*
- b) If the Committee finds that the proposed rulemaking does not meet one or more of the criteria in Section 220.900 and also finds that the rulemaking meets one or more of the criteria in Section 220.950, the Committee will prohibit the filing of the proposed rulemaking. The prohibition will be limited to the portion of the proposed rulemaking which does not meet the criteria. *This action may be taken only by the affirmative vote of ten members of the Committee.*
- c) If the committee does not make such finding, *the Committee may notify the agency in writing that no objection will be issued.* Such a notice will be mailed to the agency in the first two working days after the day of the Committee hearing on the proposed rulemaking. Such notification will be made unless either:
 - 1) The second notice period has expired.
 - 2) The Committee finds, at the time of the hearing, that additional information is necessary in order to fully review the rulemaking.
- d) Upon receiving such notice that no objection will be issued, the agency may proceed to adopt the proposed rulemaking.
- e) A notice of no objection which is issued by the Committee should not be taken as implying approval in any way of the content of the rulemaking.

(Source: Section 220.1000 renumbered from Section 220.10 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.1100 Certification of Objection; Statement of Specific Objections

- a) If the Committee objects to a proposed rulemaking, *it shall certify the fact of the objection to the agency.* Such certification will be made in the first five working days after the day of the hearing. The form which is used for this purpose is shown in Illustration B. *The certification shall include a statement of the specific objections of the Committee to the proposed rulemaking.*
- b) Each statement of specific objections shall also be submitted to the Rules Division to be published in the Register.

(Source: Section 220.1100 renumbered from Section 220.11 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.1200 Response to Objection: Deadline, Format

The agency should respond to an objection which is issued by the Committee within 90 days after it receives the statement of specific objections. The agency response should address each of the specific objections which are stated by the Committee. The response should be concise, but complete, and

should clearly state the nature of the response and the rationale for the response. The response should be made on the form shown in Illustration C.

(Source: Section 220.1200 renumbered from Section 220.12 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.1300 Response to Objection: Manner

The agency must respond to an objection by the Committee in one of the following ways:

- a) *Modify the proposed rulemaking to meet all of the specific objections stated by the Committee. The complete text of the rules including all of the changes should be included in the response.*
- b) *Withdraw the proposed rulemaking.* The agency should state the specific objections of the Committee or other reasons which are the basis of the withdrawal.
- c) *Refuse to modify or withdraw the proposed rulemaking.* The agency should present in its response its reasons for refusing to modify or withdraw the proposed rulemaking.

(Source: Section 220.1300 renumbered from Section 220.13 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.1350 Certification of Filing Prohibition; Statement of Specific Objections

- a) If the Committee prohibits the filing of a proposed rulemaking, *it shall certify the prohibition to the agency and the Secretary of State.* Such certification will be made in the first five working days after the day of the hearing. The form used for this purpose is shown in Illustration D. The certification shall indicate the specific affected portion of the rulemaking and shall include a statement of the specific objections of the Committee to the proposed rulemaking.
- b) A notice of filing prohibition which includes the statement of specific objections shall be submitted to the Rules Division to be published in the Illinois Register.
- c) The proposed rulemaking may not be filed with the Rules Division for at least 180 days after the certification is received by the Secretary of State. The agency is prohibited from enforcing or invoking the rulemaking.
- d) The Committee shall introduce a joint resolution in either house of the General Assembly to continue the prohibition. The action will be taken as soon as practicable after the certification of prohibition.
- e) Passage of the joint resolution by the General Assembly within the 180 day period shall have the effect of permanently prohibiting the agency from filing the proposed rulemaking.

(Source: Added at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.1400 Review of Response to Objection

The Committee will review each of the responses to its objections which are made by agencies. If an agency modifies a proposed rulemaking to meet the specific objections of the Committee, the

Committee will examine each of the specific changes made to meet the objections. *If the Committee finds that the changes do not remedy the objections, it will so notify the agency. It will also submit a copy of such a notice to the Rules Division to be published in the Register.* The notice will include a statement of the reasons the Committee found that the changes do not remedy the objections.

(Source: Section 220.1400 renumbered from Section 220.14 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.1500 Failure to Respond

If the Committee does not receive a response to an objection from the agency within 90 days after the receipt of the objection by the agency, the rulemaking will be withdrawn by operation of law. Following the end of the 90 days, the Director will send a notice of the fact of the withdrawal to the Rules Division. The notice will state that (1) the agency has failed to respond within the 90 days, and (2) the rulemaking has been withdrawn by operation of law. The date on which the rulemaking will be withdrawn is the day after the last day of the 90 day period. The agency may not adopt a rulemaking which has been withdrawn.

(Source: Section 220.1500 renumbered from Section 220.15 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.1600 Limit of Substantive Changes

After the start of the second notice period, no substantive change may be made to a proposed rule unless it is made in response to an objection or suggestion of the Committee. The Committee will review the text of adopted rules to insure that substantive changes have not been made in violation of this provision of the Act.

(Source: Section 220.1600 renumbered from Section 220.16 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.1700 Recommend Legislation

The Committee may draft legislation as a result of its review of proposed rulemaking. The purpose of such legislation will be to provide authority, for the rulemaking, to resolve conflicts between the rules and statutes, to clarify the intent of acts which require the rulemaking, or to deal with other issues which are discovered in its review. Such legislation will be approved by a majority vote. It will then be introduced in either house of the General Assembly.

(Source: Section 220.1700 renumbered from Section 220.17 at 5 Ill. Reg. 5164, effective May 15, 1981)

TITLE 1: GENERAL PROVISIONS
CHAPTER II: JOINT COMMITTEE ON ADMINISTRATIVE RULES

PART 230
REVIEW OF EMERGENCY RULEMAKING

Section

230.1	Basic Policy (Renumbered)
230.2	Definition (Renumbered)
230.3	Staff Review (Renumbered)
230.4	Primary Criteria for Review (Renumbered)
230.5	Secondary Criteria for Review (Renumbered)
230.6	Objection (Renumbered)
230.7	Certification of Objection; Statement of Specific Objections (Renumbered)
230.8	Response to Objection: Format (Renumbered)
230.9	Response to Objection: Manner (Renumbered)
230.10	Failure to Respond (Renumbered)
230.100	Basic Policy
230.200	Definition
230.300	Staff Review
230.400	Primary Criteria for Review
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230.550	Suspension Criteria
230.600	Objection: Suspension
230.700	Certification of Objection; Statement of Specific Objections
230.800	Response to Objection: Deadline, Format
230.900	Response to Objection: Manner
230.1000	Failure to Respond
230.1100	Certification of Suspension: Statement of Specific Objections

AUTHORITY: Implementing Sections 5.02 and 7.07 and authorized by Section 7.09 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1979, ch. 127, pars. 1005.02, 1007.07, and 1007.09).

SOURCE: Adopted at 3 Ill. Reg. 49, p. 230, effective December 10, 1979; rules repealed, new rules adopted and codified at 4 Ill. Reg. 49, p. 166, effective December 1, 1980; amended at 5 Ill. Reg. 5164, effective May 15, 1981.

Section 230.1 Basic Policy (Renumbered)

(Source: Section 230.1 renumbered to Section 230.100 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 230.2 Definition (Renumbered)

(Source: Section 230.2 renumbered to Section 230.200 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 230.3 Staff Review (Renumbered)

(Source: Section 230.3 renumbered to Section 230.300 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 230.4 Primary Criteria for Review (Renumbered)

(Source: Section 230.4 renumbered to Section 230.400 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 230.5 Secondary Criteria for Review (Renumbered)

(Source: Section 230.5 renumbered to Section 230.500 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 230.6 Objection (Renumbered)

(Source: Section 230.6 renumbered to Section 230.600 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 230.7 Certification of Objection; Statement of Specific Objections (Renumbered)

(Source: Section 230.7 renumbered to Section 230.700 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 230.8 Response to Objection: Format (Renumbered)

(Source: Section 230.8 renumbered to Section 230.800 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 230.9 Response to Objection: Manner (Renumbered)

(Source: Section 230.9 renumbered to Section 230.900 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 230.10 Failure to Respond (Renumbered)

(Source: Section 230.10 renumbered to Section 230.1000 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 230.100 Basic Policy

- a) The fact that situations occur in which agencies must take prompt action to adopt rules is recognized by the Committee and the Act. In some of these instances, emergency rules must be adopted under the process provided for this purpose by Section 5.02 of the Act. However, the Committee believes that public notice and comment is an essential part of the rulemaking process, which should only be by-passed for very serious reasons. The use of the emergency process must be limited. The process should only be used in a situation which *reasonably constitutes a threat to the public interest, safety or welfare, and requires the adoption of rules upon fewer days' notice than is required by Section 5.01 of the Act.*
- b) The Committee is empowered by Section 7.07 of the Act to *examine any rule.* The Committee will review each rule adopted through the use of emergency rulemaking under this power. The purpose of this review is to insure that the use of the process is limited to only those situations which meet the requirements of Section 5.02 of the Act. The criteria which are used in this review are stated in Sections 230.400, and 230.500 and 230.550 of this part.

(Source: Section 230.100 renumbered from Section 230.1 and amended at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 230.200 Definition

As used in this part, "emergency rulemaking" means both the process of adopting a rule as provided in Section 5.02 of the Act and the rule which is adopted by that process.

(Source: Section 230.200 renumbered from Section 230.2 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 230.300 Staff Review

The Committee staff will review each emergency rulemaking, including both the notice and the text of the rulemaking. This review will be based on the criteria in Sections 230.400, and 230.500 and

220.550 of this part. The Committee staff may raise questions or problems as a result of its review and will discuss these questions or problems with the agency. The staff will report the results of its review to the Committee and may develop a recommendation for action by the Committee. Such staff recommendations shall be advisory only and shall not limit the Committee's power to take some other action. In order to encourage full and open discussion of emergency rulemaking, the staff will try to insure that the agency is aware of the substance of such recommendations prior to the hearing.

(Source: Section 220.300 renumbered from Section 220.3 and amended at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.400 Primary Criteria for Review

The Committee will first consider these criteria in its review of emergency rulemaking:

- a) Does the agency's statement of the need for the emergency rulemaking show that it complies with Section 5.02 of the Act? The statement must show that *a situation exists which reasonably constitutes a threat to the public interest, safety or welfare and which requires the adoption of the rule upon fewer days' notice than is required by Section 5.01 of the Act.*
- b) Has the agency given an adequate reason for not complying with the notice and hearing requirements of the Act?
- c) Is the rulemaking limited to what is required by the emergency? It should contain no provisions which are not required to meet the emergency.
- d) Did the agency take actions to make the emergency rulemaking known to the persons who may be affected by it?
- e) Has the agency adopted the same rules, or rules which have *substantially the same purpose and effect*, through the use of the emergency process in the past 24 months?

(Source: Section 220.400 renumbered from Section 220.4 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 220.500 Secondary Criteria for Review

If the rulemaking is found to meet the criteria in Section 220.400, the Committee will then consider these criteria in its review of each emergency rulemaking:

- a) Substantive
 - 1) Is there legal authority for each part of the rulemaking?
 - 2) Does each part of the rulemaking comply with the statutory authority and legislative intent on which it is based, or which it is implementing or interpreting?
 - 3) Does each part of the rulemaking comply with state and federal constitutions, state and federal law, and case law?
 - 4) Does it include adequate standards for the exercise of each discretionary power which is discussed in the rulemaking?

b) Propriety

- 1) Is there an adequate justification and rationale for the rulemaking and for any regulation of the public embodied in the rules?
- 2) Has the agency reasonably considered the economic and budgetary effects of the rulemaking as well as less costly alternatives?
- 3) Is the language of the rules simple and clear, so that the rules can be understood by the persons and groups which they will affect?
- 4) Are the rules free of serious technical errors, redundancies and grammatical or typographical errors, which could affect the meaning of the rules?

c) Procedural

- 1) Does it comply with the requirements of the Rules Division (see 1 Ill. Adm. Code 160)?
- 2) Does it comply with any additional requirements which have been imposed on the agency by state or federal law?
- 3) Does it comply with the agency's own rules for its rulemaking process?

(Source: Section 230.500 renumbered from Section 230.5 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 230.550 Suspension Criteria

If the Committee finds that the emergency rulemaking does not meet one or more of the criteria in Sections 230.400 and 230.500, the Committee will then consider the following criteria:

- a) Is the rulemaking *a serious threat to the public interest*? In considering this question, the Committee will examine:
 - 1) Whether the rulemaking contains significant policies which have been rejected by the General Assembly in a proposed bill.
 - 2) Whether the rulemaking unconstitutionally or unlawfully discriminates against any citizens of the state.
 - 3) Whether the rulemaking unconstitutionally or unlawfully inhibits the free exercise of the rights of citizens of the state.
- b) Is the rulemaking *a serious threat to the public safety*? In considering this question, the Committee will examine:
 - 1) Whether the rulemaking could result in a significant decrease in the protection provided against threats to the safety of the citizens of the state.
 - 2) Whether the rulemaking could result in a significant increase in the threat of physical harm to the citizens of the state.
- c) Is the rulemaking *a serious threat to the public welfare*? In considering this questions, the Committee will examine:

- 1) Whether the rulemaking imposes significant unreasonable or unnecessary economic costs on citizens of the state.
- 2) Whether the rulemaking would adversely affect the health or well-being of the citizens of the state.
- 3) Whether the rulemaking would significantly and adversely affect the quality of life of the citizens of the state.

(Source: Added at 5 Ill. Reg. page 5164, effective May 15, 1981)

Section 230.600 Objection; Suspension

- a) If the Committee finds that the emergency rulemaking does not meet one or more of the criteria in Sections 230.400 and 230.500, *it will object to the rules*. The fact that the Committee does not object to a rulemaking should not be taken as implying approval in any way of the content of the rulemaking.
- b) If the Committee finds that the emergency rulemaking does not meet one or more of the criteria in Sections 230.400 and 230.500 and also finds that the rulemaking meets one or more of the criteria in Section 230.600, the Committee will suspend the emergency rules. The suspension will be limited to the portion of the emergency rules which does not meet the criteria. *This action may be taken only by the affirmative vote of ten members of the Committee.*

(Source: Section 230.600 renumbered from Section 220.6 and amended at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 230.700 Certification of Objection; Statement of Specific Objections

- a) If the Committee objects to an emergency rulemaking, *it shall certify the fact of the objection to the agency*. Such certification will be made in the first five working days after the day of the hearing. The form which is used for this purpose is shown in Illustration E. *The certification shall include a statement of the specific objections of the Committee to the rules.*
- b) Each statement of specific objections shall also be submitted to the Rules Division to be published in the Register.

(Source: Section 230.700 renumbered from Section 220.7 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 230.800 Response to Objection; Deadline, Format

The agency should respond to an objection which is issued by the Committee within 90 days after it receives the statement of specific objections. The agency response should address each of the specific objections which are stated by the Committee. The response should be concise, but complete, and should clearly state the nature of the response and the rationale for the response. The response should be made in the manner shown in Illustration G.

(Source: Section 230.800 renumbered from Section 230.8 and amended at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 230.900 Response to Objection: Manner

The agency must respond to an objection by the Committee in one of the following ways:

- a) *Modify the emergency rulemaking to meet all of the specific objections stated by the Committee.* The complete text of the rules including all of the changes should be included in the response. These changes may be made by submitting a notice with the changes to the Rules Division to be published in the Register. Modifying emergency rules by publishing such a notice will not be deemed to be a new rulemaking. It will not extend the 150 day effective period of the rules, nor will it be deemed to violate the provision of the Act which prohibits adoption of the same emergency rules twice.
- b) *Repeal the emergency rulemaking.* This may be done by submitting a notice to the Rules Division as provided in Section 160.1350 of the Rules on Rules (1 Ill. Adm. Code 160.1350). The agency should state the specific objections of the Committee or other reasons which are the basis of the repeal.
- c) *Refuse to modify or repeal the emergency rulemaking.* The agency should present in its response its reasons for refusing to modify or repeal the emergency rulemaking.

(Source: Section 230.900 renumbered from Section 230.9 and amended at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 230.1000 Failure to Respond

Failure of an agency to respond to an objection to an emergency rule within 90 days of the receipt of the objection shall be deemed to be a refusal to modify or repeal the rule.

(Source: Section 230.1000 renumbered from Section 230.10 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 230.1100 Certification of Suspension; Statement of Specific Objections

- a) If the Committee suspends an emergency rulemaking, *it shall certify the suspension to the agency and the Secretary of State.* Such certification will be made in the first five working days after the day of the hearing. The form used for this purpose is shown in Illustration F. The certification shall indicate the specific affected portion of the rulemaking and shall include a statement of the specific objections of the Committee to the emergency rules.
- b) A notice of suspension which includes the statement of specific objections shall be submitted to the Rules Division to be published in the Illinois Register.
- c) The effectiveness of the emergency rules will be immediately suspended on receipt of the certification by the Secretary of State. Such suspension will be indicated on the face of

the rules by the Rules Division. The suspension shall last at least 180 days after the certification is received by the Secretary of State. The agency is prohibited from enforcing or invoking the suspended rules.

- d) The Committee shall introduce a joint resolution in either house of the General Assembly to continue the suspension. This action will be taken as soon as practicable after the certification of suspension.
- e) Passage of the joint resolution by the General Assembly within the 180 day period shall have the effect of repealing the emergency rules. The Rules Division will immediately remove such rules from the collection of effective rules on passage of such a joint resolution.

(Source: Added at 5 Ill. Reg. 5164, effective May 15, 1981)

TITLE 1: GENERAL PROVISIONS
CHAPTER II: JOINT COMMITTEE ON ADMINISTRATIVE RULES

PART 240
REVIEW OF PEREMPTORY RULEMAKING

Section

240.1	Basic Policy (Renumbered)
240.2	Definitions (Renumbered)
240.3	Submission; Staff Review (Renumbered)
240.4	Staff Report (Renumbered)
240.5	Primary Criteria for Review (Renumbered)
240.6	Secondary Criteria for Review (Renumbered)
240.7	Objection (Renumbered)
240.8	Certification of Objection; Statement of Specific Objections (Renumbered)
240.9	Response to Objection: Format (Renumbered)
240.10	Response to Objection: Manner (Renumbered)
240.11	Rulemaking in Response to Objection (Renumbered)
240.12	Failure to Respond (Renumbered)
240.100	Basic Policy
240.200	Definitions
240.300	Submission; Staff Review
240.400	Staff Report
240.500	Primary Criteria for Review
240.600	Secondary Criteria for Review
240.650	Suspension Criteria
240.700	Objection; Suspension
240.800	Certification of Objection; Statement of Specific Objections
240.900	Response to Objection: Format
240.1000	Response to Objection: Manner
240.1100	Rulemaking in Response to Objection
240.1200	Failure to Respond
240.1300	Certification of Suspension; Statement of Specific Objections
ILLUSTRATION A	Agency Analysis of Economic and Budgetary Effects of Proposed Rulemaking
ILLUSTRATION B	Certification of Objections to Proposed Rulemaking
ILLUSTRATION C	Agency Response to Joint Committee Objection to Proposed Rulemaking
ILLUSTRATION D	Certification of Filing Prohibition of Proposed Rulemaking
ILLUSTRATION E	Certification of Objection to Emergency or Peremptory Rules
ILLUSTRATION F	Certification of Suspension of Emergency or Peremptory Rules
ILLUSTRATION G	Agency Response to Joint Committee Objection to Emergency or Peremptory Rules

AUTHORITY: Implementing Sections 5.02, 7.04, and 7.07 and authorized by Section 7.09 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1979, ch. 127, pars. 1005.02, 1007.04, 1007.07, and 1007.09).

SOURCE: Adopted at 3 Ill. Reg. 49, p. 230, effective December 10, 1979; rules repealed, new rules adopted and codified at 4 Ill. Reg. 49, p. 166, effective December 1, 1980; amended at 5 Ill. Reg. 5164, effective May 15, 1981.

Section 240.1 Basic Policy (Renumbered)

(Source: Section 240.1 renumbered to Section 240.100 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240.2 Definitions (Renumbered)

(Source: Section 240.2 renumbered to Section 240.200 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240.3 Submission; Staff Review (Renumbered)

(Source: Section 240.3 renumbered to Section 240.300 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240.4 Staff Report (Renumbered)

(Source: Section 240.4 renumbered to Section 240.400 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240.5 Primary Criteria for Review (Renumbered)

(Source: Section 240.5 renumbered to Section 240.500 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240.6 Secondary Criteria for Review (Renumbered)

(Source: Section 240.6 renumbered to Section 240.600 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240.7 Objection (Renumbered)

(Source: Section 240.7 renumbered to Section 240.700 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240.8 Certification of Objection; Statement of Specific Objections (Renumbered)

(Source: Section 240.8 renumbered to Section 240.800 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240.9 Response to Objection: Format (Renumbered)

(Source: Section 240.9 renumbered to Section 240.900 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240.10 Response to Objection: Manner (Renumbered)

(Source: Section 240.10 renumbered to Section 240.1000 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240.11 Rulemaking in Response to Objection (Renumbered)

(Source: Section 240.11 renumbered to Section 240.1100 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240.12 Failure to Respond (Renumbered)

(Source: Section 240.12 renumbered to Section 240.1200 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240.100 Basic Policy

- a) The fact that situations occur in which agencies are required by a federal law, federal rules and regulations, or a court order to take prompt action to adopt rules is recognized by the Committee and the Act. In some of these instances, peremptory rules must be adopted under the process provided for this purpose by Section 5.03 of the Act. However, the Committee believes that public notice and comment is an essential part of the rulemaking process, which should only be by-passed for very serious reasons. The use of the peremptory process must be limited. The process should only be used in a situation which precludes the agency's compliance with the general rulemaking requirements of the Act.

- b) The Committee is empowered by Section 7.07 of the Act to *examine any rule*. The Committee will review each rule adopted through the use of peremptory rulemaking under this power. The purpose of this review is to insure that use of the process is limited to only those situations which meet the requirements of Section 5.03 of the Act. The criteria which are used in this review are stated in Sections 240.500, and 240.600 and 240.650 of this part.

(Source: Section 240.100 renumbered from Section 240.1 and amended at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240.200 Definitions

As used in this part:

"Conditions which preclude compliance with the general rulemaking requirements imposed by Section 5.01 of the Act" includes only those conditions which make it impossible to comply with the notice or hearing requirements of the Act. A federal law, federal rule or regulation, or court order which merely makes it more difficult to comply or which prescribes the content of such rulemaking does not make it impossible to comply.

"Federal rules and regulations" means those rules which are or will be published in the Code of Federal Regulations.

"Peremptory rulemaking" means both the process of adopting a rule as provided in Section 5.03 of the Act and the rule which is adopted by that process.

(Source: Section 240.200 renumbered from Section 240.2 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240.300 Submission; Staff Review

On the same day that a notice of peremptory rulemaking is filed with the Rules Division, the agency shall submit to the Committee a copy of the court order or specific citation of the federal law or federal rules or regulations which require the rulemaking. The staff will review the peremptory rulemaking, including the notice and the text. This staff review will be based on the criteria in Sections 240.500, and 240.600 and 240.650. The staff may raise questions or problems as a result of its review of the rulemaking, and will discuss these questions or problems with the agency.

(Source: Section 240.300 renumbered from Section 240.3 and amended at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240.400 Staff Report

The staff will report the results of its review to the Committee and may develop a recommendation for action by the Committee. Such staff recommendations shall be advisory only and shall not limit the Committee's power to take some other action. In order to encourage full and open discussion, the staff will try to insure that the agency is aware of the substance of the recommendations.

(Source: Section 240.400 renumbered from Section 240.4 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240.500 Primary Criteria for Review

The Committee will first consider these criteria in its review of peremptory rulemaking:

- a) Was the agency precluded from complying with the general rulemaking requirements imposed by Section 5.01 of the Act, as that phrase is defined in Section 240.300 of this part?
- b) Was the agency required to adopt rules as a direct result of federal law, federal rules and regulations, or court order?
- c) Is the rulemaking limited to what is required by the federal law, federal rules and regulations, or court order? It should contain no provisions which are not required.
- d) Has the agency given an adequate reason for not complying with the notice and hearing requirements of the Act?
- e) Did the agency file the notice within 30 days after the change in the rules was required as required by the Act?

(Source: Section 240.500 renumbered from Section 240.5 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240.600 Secondary Criteria for Review

If the rulemaking is found to meet the criteria in Section 240.500, the Committee will then consider these criteria in its review of each peremptory rulemaking:

- a) Substantive
 - 1) Is there legal authority for each part of the rulemaking?
 - 2) Does each part of the rulemaking comply with the statutory authority and legislative intent on which it is based, or which it is implementing or interpreting?
 - 3) Does each part of the rulemaking comply with state and federal constitutions, state and federal law, and case law?
 - 4) Does it include adequate standards for the exercise of each discretionary power which is discussed in the rulemaking?
- b) Propriety
 - 1) Is there an adequate justification and rationale for the rulemaking and for any regulation of the public embodied in the rules?
 - 2) Has the agency reasonably considered the economic and budgetary effects of the rulemaking as well as less costly alternatives?
 - 3) Is the language of the rules simple and clear, so that the rules can be understood by the persons and groups which they will affect?
 - 4) Are the rules free of serious technical errors, redundancies and grammatical or typographical errors, which could affect the meaning of the rules?
- c) Procedural
 - 1) Does it comply with the requirements of the Rules Division (see 1 Ill. Adm. Code 160)?

- 2) Does it comply with any additional requirements which have been imposed on the agency by state or federal law?
- 3) Does it comply with the agency's own rules for its rulemaking process?

(Source: Section 240.600 renumbered from Section 240.6 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240.650 Suspension Criteria

If the Committee finds that the peremptory rulemaking does not meet one or more of the criteria in Sections 240.500 and 240.600, the Committee will then consider the following criteria:

- a) Is the rulemaking *a serious threat to the public interest*? In considering this question, the Committee will examine:
 - 1) Whether the rulemaking contains significant policies which have been rejected by the General Assembly in a proposed bill.
 - 2) Whether the rulemaking unconstitutionally or unlawfully discriminates against any citizens of the state.
 - 3) Whether the rulemaking unconstitutionally or unlawfully inhibits the free exercise of the rights of citizens of the state.
- b) Is the rulemaking *a serious threat to the public safety*? In considering this question, the Committee will examine:
 - 1) Whether the rulemaking could result in a significant decrease in the protection provided against threats to the safety of the citizens of the state.
 - 2) Whether the rulemaking could result in a significant increase in the threat of physical harm to the citizens of the state.
- c) Is the rulemaking *a serious threat to the public welfare*? In considering this question, the Committee will examine:
 - 1) Whether the rulemaking imposes significant unreasonable or unnecessary economic costs on citizens of the state.
 - 2) Whether the rulemaking would adversely affect the health or well-being of the citizens of the state.
 - 3) Whether the rulemaking would significantly and adversely affect the quality of life of the citizens of the state.

(Source: Added at 5 Ill. Reg. page 5164, effective May 15, 1981)

Section 240.700 Objection; Suspension

- a) If the Committee finds that the peremptory rulemaking does not meet one or more of the criteria in Sections 240.500 and 240.600, it will object to the peremptory rules. The fact

that the Committee does not object to a rulemaking should not be taken as implying in any way approval of the content of the rulemaking.

- b) If the Committee finds that the peremptory rulemaking does not meet one or more of the criteria in Sections 240.500 and 240.600 and also finds that the rulemaking meets one or more of the criteria in Section 240.650, the Committee will suspend the peremptory rules. The suspension will be limited to the portion of the peremptory rules which does not meet the criteria. *This action may be taken only by the affirmative vote of ten members of the Committee.*

(Source: Section 240.700 renumbered from Section 240.7 and amended at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240.800 Certification of Objection; Statement of Specific Objections

- a) If the Committee objects to a peremptory rulemaking, it *shall certify the fact of the objection to the agency.* Such certification will be made in the first five working days after the day of the hearing. The form which is used for this purpose is shown in Illustration E. *The certification shall include a statement of the specific objections of the Committee to the rules.*
- b) Each statement of specific objections shall also be submitted to the Rules Division to be published in the Register.

(Source: Section 240.800 renumbered from Section 240.8 and amended at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240.900 Response to Objection: Format

The agency should respond to an objection which is issued by the Committee within 90 days after it receives the statement of specific objections. The agency response shall address each of the specific objections which are stated by the Committee. The response should be concise, but complete, and should clearly state the nature of the response and the rationale for the response. The response should be made in the manner shown in Illustration G.

(Source: Section 240.900 renumbered from Section 240.9 and amended at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240.1000 Response to Objection: Manner

The agency must respond to an objection by the Committee in one of the following ways:

- a) *Amend the peremptory rules to meet all of the specific objections stated by the Joint Committee.*
- b) *Repeal the peremptory rules.* The agency should state the specific objection of the Committee or other reasons which are the basis of the repeal.
- c) *Refusal to amend or repeal the peremptory rules.* The agency should present in its response its reasons for refusing to amend or repeal the rules.

(Source: Section 240.1000 renumbered from Section 240.10 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240.1100 Rulemaking in Response to Objection

If an agency elects to amend or repeal a rule in response to an objection, it should begin rulemaking for that purpose by giving notice as required by Section 5.01 of the Act. The Committee will give priority to rulemaking which was begun to meet an objection in setting its agenda. The agency should complete rulemaking within 180 days after giving notice in the Register.

(Source: Section 240.1100 renumbered from Section 240.11 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240.1200 Failure to Respond

Failure of an agency to respond to an objection by the Committee to a peremptory rule within 90 days of the receipt of the objection shall be deemed to be a refusal to amend or repeal the rule.

(Source: Section 240.1200 renumbered from Section 240.12 at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240.1300 Certification of Suspension; Statement of Specific Objections

- a) *If the Committee suspends a peremptory rulemaking, it shall certify the suspension to the agency and the Secretary of State. Such certification will be made in the first five working days after the day of the hearing. The form used for this purpose is shown in Illustration F. The certification shall indicate the specific affected portion of the rulemaking and shall include a statement of the specific objections of the Committee to the peremptory rules.*
- b) *A notice of suspension which includes the statement of specific objections shall be submitted to the Rules Division to be published in the Illinois Register.*
- c) *The effectiveness of the peremptory rules will be immediately suspended on receipt of the certification by the Secretary of State. Such suspension will be indicated on the face of the rules by the Rules Division. The suspension shall last at least 180 days after the certification is received by the Secretary of State. The agency is prohibited from enforcing or invoking the suspended rules.*
- d) *The Committee shall introduce a joint resolution in either house of the General Assembly to continue the suspension. This action will be taken as soon as practicable after the certification of suspension.*
- e) *Passage of the joint resolution by the General Assembly within the 180 day period shall have the effect of repealing the peremptory rules. The Rules Division will immediately remove such rules from the collection of effective rules on passage of such a joint resolution.*

(Source: Added at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240 ILLUSTRATION A Agency Analysis of Economic and Budgetary Effects of Proposed Rulemaking

Agency: _____

Proposed Rulemaking: _____

1. Direct economic effect on the persons who will be regulated by the rule.

Discussion

Specific Estimated Effect

\$

2. Effect on the agency's budget.

Discussion

Specific Estimated Effect

\$

3. Effect on the budgets of other state agencies.

Discussion

Specific Estimated Effect

\$

4. Effect on State revenue.

Discussion

Specific Estimated Effect

\$

5. Other considerations relevant to the economic and budgetary effects of the proposed rulemaking.

Discussion

Signature of Agency Official

(See Sections 220.300, 220.400 and 220.500)

Section 240. ILLUSTRATION B Certification of Objection to Proposed Rulemaking (Renumbered)

County of Sangamon)

State of Illinois)

The Joint Committee on Administrative Rules hereby certifies that pursuant to Section 7.04 and 7.06 of the Illinois Administrative Procedure Act, as amended, the Joint Committee on Administrative Rules, at its meeting on _____ (Date), objected to _____ (Title of Rulemaking), proposed by _____ (Name of Agency).

A statement of the Joint Committee's specific objections accompanies this certification.

Please take notice that failure to respond within 90 days of receipt of this Statement of Objection shall constitute withdrawal of the proposed rulemaking published in the _____ (Date) Illinois Register in its entirety.

(Signature)

(By: _____)

(Signature)

(Typewritten Name)

(Typewritten Name)

Chairman

Joint Committee on Administrative Rules

Subscribed and sworn to before me this _____ (Date) day of _____ (Month), 19 _____ (Year).

Notary Public

(See Section 220.1100)

(Source: Amended at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240. ILLUSTRATION C Agency Response to Joint Committee Objection to Proposed Rulemaking

Date: _____

Agency: _____

Title and Subject of Rule: _____

Response (Check One): _____

Modification of Rulemaking to Meet Objections

Withdrawal of Rulemaking

Refusal to Modify or Withdraw

Signature of Agency OfficialAgency Response to Specific Joint Committee Objections:

(Respond to each objection raised by the Joint Committee, indicating clearly the intended action of the agency in response to each objection and the rationale for such response. Use Additional pages as necessary.)

(See Section 220.1200)

Section 240.ILLUSTRATION D Certification of Filing Prohibition of Proposed Rulemaking

County of Sangamon)

State of Illinois)

The Joint Committee on Administrative Rules, hereby certifies that, pursuant to Section 7.06a of the Illinois Administrative Procedure Act, as amended, the Joint Committee on Administrative Rules, at its meeting _____ (Date), prohibited the filing of _____ (Title of Rulemaking or Portion Thereof), proposed by _____ (Name of Agency).

A statement of the Joint Committee's specific objections accompanies this certification.

Please take notice that the agency is prohibited from filing the rulemaking with the Secretary of State and from enforcing or invoking for any reason the rulemaking for at least 180 days from the date this certification and statement are received by the Secretary of State.

Certified _____ (Date).

(Signature)

(By: _____)

(Signature)

(Typewritten Name)

(Typewritten Name)

Chairman

Joint Committee on Administrative Rules

Subscribed and Sworn to before me this _____ (Date) day of _____ (Month), 19____ (Year).

Notary Public

(See Section 220.1350)

(Source: Former Illustration D renumbered to Illustration E, new Illustration D adopted at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240. ILLUSTRATION E Certification of Objection to Emergency or Peremptory Rules

County of Sangamon)

)

State of Illinois)

The Joint Committee on Administrative Rules hereby certifies that, pursuant to Section 7.04 and 7.07 of the Illinois Administrative Procedure Act, as amended, the Joint Committee on Administrative Rules, at its meeting on _____ (Date), objected to the _____ (Name of Agency)'s, _____ (Emergency, Peremptory) rules entitled or concerning _____ (Title or Subject of Rules) which were published in the _____ (Date), Illinois Register.

A statement of the Joint Committee's specific objections accompanies this certification.

Please take notice that failure of the Agency to respond to the Joint Committee's objections to a rule within 90 days of receipt of this Certification of Objection shall constitute refusal to amend or repeal the rule.

Certified _____ (Date).

(Signature)

(By: _____)

(Signature)

(Typewritten Name)

(Typewritten Name)

Chairman

Joint Committee on Administrative Rules

Subscribed and sworn to before me this _____ (Date) day of _____ (Month), 19 _____ (Year).

Notary Public

(See Sections 230.600 and 240.300)

(Source: Former Illustration E renumbered to Illustration G, new Illustration E renumbered from Illustration D and amended at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240. ILLUSTRATION F Certification of Suspension of Emergency or Peremptory Rules

County of Sangamon)

)

State of Illinois)

The Joint Committee on Administrative Rules hereby certifies that, pursuant to Section 7.07a of the Illinois Administrative Procedure Act, as amended, the Joint Committee on Administrative Rules, at its meeting on _____ (Date), suspended the _____ (Name of Agency)'s, _____ (Emergency, Peremptory) rules entitled or concerning _____ (Title or Subject of Rules or Portion Thereof) which were published in the _____ (Date) Illinois Register.

A statement of the Joint Committee's specific objections accompanies this certification.

Please take notice that the agency is prohibited from enforcing, or invoking for any reason, these rules which have been suspended and from filing with the Secretary of State any rule having substantially the same purpose and effect as these suspended rules for at least 180 days from the date this certification and statement are received by the Secretary of State.

Certified _____ (Date).

(Signature)

(By: _____)

(Signature)

(Typewritten Name)

(Typewritten Name)

Chairman

Joint Committee on Administrative Rules

Subscribed and Sworn to before me this _____ (Date) day of _____ (Month), 19 _____ (Year).

Notary Public

(See Sections 230.1100 and 240.1300)

(Source: Added at 5 Ill. Reg. 5164, effective May 15, 1981)

Section 240. ILLUSTRATION G Agency Response to Joint Committee Objection to Emergency or Peremptory Rules

Date: _____

Agency: _____

Title and Subject of Rule: _____

Response (Check One): _____ Initiate rulemaking to repeal the rules to meet the Joint Committee's objection

_____ Initiate rulemaking to amend the rules to meet the Joint Committee's objection

_____ Refusal to initiate rulemaking to remedy the Joint Committee's objection

If rulemaking will be initiated, date notice of proposed rulemaking was, or is expected to be, published in the Illinois Register: _____

Agency Response to Specific Joint Committee Objections:

(Respond to each of the specific objections raised by the Joint Committee, indicating clearly the intended action of the agency in response to each objection and the rationale for such response. Use Additional pages as necessary.)

Signature of Agency Official

(See Sections 230.300 and 240.1000)

(Source: Illustration G renumbered from Illustration E at 5 Ill. Reg. 5164, effective May 15, 1981)

TITLE 1: GENERAL PROVISIONS
CHAPTER II: JOINT COMMITTEE ON ADMINISTRATIVE RULES

PART 250
FIVE-YEAR EVALUATION OF ALL EXISTING RULES

Section	
250.100	Authority
250.200	Relation to Other Reviews
250.300	Subject Categories
250.400	Schedule: First Year
250.500	Schedule: Second Year
250.600	Schedule: Third Year
250.700	Schedule: Fourth Year
250.800	Schedule: Fifth Year
250.900	Notice to Agencies
250.1000	Initial Questions
250.1100	Staff Review
250.1200	Public Hearings
250.1300	Grouping of Rules
250.1400	Criteria for Review
250.1500	Staff Report; Agency Response
250.1600	Hearing on Staff Report
250.1700	Actions as Results of Review
250.1800	Actions: Objections
250.1900	Agency Response to Objection
250.2000	Failure to Respond
250.2100	Actions: Recommend Agency Action
250.2200	Recommend Legislation

AUTHORITY: Implementing Section 7.08 and authorized by Section 7.09 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1979, ch. 127, par. 1007.08 and 1007.09).

SOURCE: Adopted at 3 Ill. Reg. 34, p. 204, effective September 1, 1979; rules repealed, new rules adopted and codified at 4 Ill. Reg. 49, p. 166, effective December 1, 1980.

Section 250.100 Authority

The Committee will review all agency rules on a periodic basis by the subject of the rules. Each set of rules of each agency will be evaluated during the course of this review *at least once every five years*. This review is mandated by Section 7.08 of the Act.

Section 250.200 Relation to Other Reviews

The five-year review of all agency rules discussed in this part is in addition to the review of proposed rules of state agencies and other reviews of agency rules authorized by other provisions of the Act.

Section 250.300 Subject Categories

To insure that the Committee reviews *similar rules at the same time*, it will classify each set of rules in one of the subjects listed in Section 250.400 through 250.300. As new sets of rules are adopted, they will be classified into these subjects and the Committee will maintain a current listing of all of the rules under each subject.

Section 250.400 Schedule: First Year

In the first year of each five-year review cycle the Committee will review all of the rules classified in these subjects:

- a) Industry and Labor
 - 1) Agricultural Regulation
 - 2) Business Regulation
 - 3) Consumer Protection
 - 4) Labor Laws
 - 5) Regulation of Occupations

Section 250.500 Schedule: Second Year

In the second year of each five-year review cycle, the Committee will review all of the rules classified in these subjects:

- a) Education and Cultural Resources
 - 1) Special Education
 - 2) Vocational and Professional Education
- b) Financial Institutions
- c) Government Management
 - 1) State Buildings Construction and Maintenance
 - 2) State Travel
- d) Human Resources
 - 1) Grants for Medical Services
 - 2) Public Health
 - 3) State Adult Institutions
- e) Natural Resources
 - 1) Land Pollution Control
 - 2) Wildlife Management
- f) Public Utilities

Section 250.600 Schedule: Third Year

In the third year of each five-year review cycle, the Committee will review all of the rules classified in these subjects:

- a) Education and Cultural Resources
 - 1) Educational Grants and Scholarship Programs
 - 2) Cultural Resources
- b) Emergency Services
- c) Government Management

- 1) Elections
- 2) Records and Information Management
- 3) State Financial Management
- d) Human Resources
 - 1) Food Handling and Services
 - 2) Regulation of Social Services
- e) Natural Resources
 - 1) Parks and Recreation Management
 - 2) Public Water Supplies
- f) Transportation
 - 1) Railroad Regulation

Section 250.700 Schedule: Fourth Year

In the fourth year of each five-year review cycle, the Committee will review all of the rules classified in these subjects:

- a) Education and Cultural Resources
 - 1) Higher Education
 - 2) Elementary and Secondary Education
- b) Government Management
 - 1) Government Purchasing
 - 2) Personnel and Merit Systems
 - 3) Retirement Systems
- c) Human Resources
 - 1) Grants for Social Services
 - 2) Regulation of Health Facilities
- d) Natural Resources
 - 1) Air Pollution Control
 - 2) Energy
- e) Transportation
 - 1) Airplane and Airport Regulation
 - 2) Traffic Safety

Section 250.300 Schedule: Fifth Year

In the fifth year of each five-year review cycle, the Committee will review all of the rules classified in these subjects:

- a) Education and Cultural Resources
 - 1) Educational Facilities and Safety

- b) Government Management
 - 1) Organizational and Rulemaking Rules
 - 2) State Revenue
- c) Human Resources
 - 1) Regulation of Health Professions
 - 2) Regulation of Medical Services
 - 3) State Juvenile Institutions
- d) Law Enforcement
- e) Natural Resources
 - 1) Water Resources and Pollution Control
- f) Transportation
 - 1) Highway Planning, Construction and Maintenance
 - 2) Trucking Industry Regulation

Section 250.900 Notice to Agencies

At the beginning of each year of the review, the Committee will notify each agency whose rules will be reviewed during that year. Such notification will include the following information:

- a) The specific sets of rules which are classified in the subject which will be reviewed.
- b) The location of such rules in the collection of the agency's rules which are on file with the Rules Division.
- c) The time period during which the Committee will be reviewing such rules.

Section 250.1000 Initial Questions

The Committee will request the agency to submit the following information on each set of rules being reviewed. The agency will be allowed at least 60 days to submit this information.

- a) A citation to the specific statute which authorizes each set of rules and the specific statute which each set of rules is implementing or interpreting.
- b) A list of the programs and organizational units of the agency which are related to each set of rules.
- c) An estimate of the cost to the State for operation of the agency programs related to each set of rules and for enforcement or monitoring of compliance with the rules.
- d) An estimate of the extent of compliance and non-compliance by the affected public with each set of rules, and the number and extent of variances permitted by the agency to each set of rules.
- e) An estimate of the effect of each set of rules on state revenue.
- f) An estimate of the economic effect on the persons and groups which are regulated by each set of rules.

- g) A discussion of the public need for the regulation provided by each set of rules. This discussion should include evidence of any harm that would result to the public health, welfare or safety, if the rules were repealed.

Section 250.1100 Staff Review

The staff of the Committee will review each set of rules. Such staff review will be based on the criteria in Section 250.1400. The staff may raise questions or problems as a result of its review and will discuss these questions or problems with the agency. The agency will be allowed at least 60 days to provide written responses to any questions raised.

Section 250.1200 Public Hearings

The Committee will hold one or more public hearings during the review of the rules in each subject to gather information and views from interested persons and groups, when it finds that such a hearing is necessary for a complete review of the rules. The Chairman of the Committee may designate a subcommittee for the purpose of holding such public hearings. The agenda of such hearings shall be published in the Register as provided in Section 7.02(c) of the Act. Each agency whose rules are the subject of a public hearing will be notified of the hearing. Testimony which is presented at such hearings will be considered by the Committee in its review of the rules as it relates to the criteria in Section 250.1400.

Section 250.1300 Grouping of Rules

The Committee may further group rules together by agency, or by subject to facilitate the conduct of the review or to report the findings to the Committee.

Section 250.1400 Criteria for Review

The Committee will consider these criteria in its review of each set of rules:

a) Substantive

- 1) Is there legal authority for each part of the rules?
- 2) Does each part of the rules comply with the statutory authority and legislative intent on which it is based, or which it is implementing or interpreting?
- 3) Does each part of the rules comply with state and federal constitutions, state and federal law, and case law?
- 4) Do they include adequate standards for the exercise of each discretionary power which is discussed in the rules?

b) Propriety

- 1) Is there an adequate justification and rationale for the rules and for any regulation of the public embodied in the rules?
- 2) Has the agency reasonably considered the economic and budgetary effects of the rules as well as less costly alternatives?

- 3) Is the language of the rules simple and clear, so that the rules can be understood by the persons and groups which they will affect?
 - 4) Are the rules free of serious technical errors, redundancies and grammatical or typographical errors, which could affect the meaning of the rules?
- c) Procedural
- 1) Were the rules adopted in compliance with the Act?
 - 2) Were the rules adopted in compliance with the requirements of the Rules Division (see 1 Ill. Adm. Code 160)?
 - 3) Were the rules adopted in compliance with any additional requirements which have been imposed on the agency by state or federal law?
 - 4) Were the rules adopted in compliance with the agency's own rules for its rulemaking process?
 - 5) Has the agency been responsive to public comments which have been made on the rules and to related requests for rulemaking?
- d) Additional
- 1) Has the agency shown that the rules are necessary? Has the agency shown that there is a public need for the regulation embodied in the rules?
 - 2) Are the rules accurate and current in relation to agency operations and programs?
 - 3) Are the rules free of overlaps and conflicts between requirements and between regulatory jurisdictions?

Section 250.1500 Staff Report; Agency Response

The staff will report the results of its review to the Committee. The staff report may include recommendations for any of the types of action listed in Section 250.1700. Such recommendations shall be only advisory to the Committee and shall not limit the Committee's power to take some other action. Each agency whose rules are being reviewed shall be given an opportunity to submit its views and comments on the staff report in writing prior to the hearing by the Committee.

Section 250.1600 Hearing on Staff Report

The Joint Committee shall hold a hearing on each staff report in its review of rules in a subject. Such a hearing may be conducted as part of other hearings of the Committee. The agenda of such a hearing will be published in the Register as provided in Section 7.02(c) of the Act. At the hearing the Committee will consider the rules and the staff report in relation to the criteria in Section 250.1400. Written or oral testimony by the agencies and testimony received at public hearings held as provided Section 250.1200 will also be considered.

Section 250.1700 Actions as Results of Review

In response to problems which are discovered in the rules as a result of its review, the Committee may take any of these types of actions:

- a) Object to specific rules which were reviewed. Such objections to rules shall be made as discussed in Section 250.1800.
- b) Recommend rulemaking or some other type of action by agencies. This type of action may include recommending changes in the rulemaking process which is followed by agencies or coordination of rulemaking between agencies. Such action shall be taken as discussed in Section 250.2100.
- c) Recommend further study of the problems by a legislative committee, commission or other unit.
- d) Draft specific legislation to correct the problem. Such legislation will be approved by a majority vote. It will then be introduced in either house of the General Assembly.

Section 250.1800 Actions: Objections

If the Committee finds that a rule or a set of rules does not meet one or more of the criteria in Section 250.1400, it will object to the rule as provided in Section 7.07 of the Act. In five working days after the day of the hearing the Committee will certify the fact of the objection to the agency. The form used for this purpose is shown in Illustration H. A statement of specific objections to the rule shall be included.

Section 250.1900 Agency Response to Objection

- a) The agency should respond to an objection which is issued by the Committee within 90 days after it receives the statement of specific objections. The agency response should address each of the specific objections which are stated by the Committee. The agency response should be concise, but complete, and should clearly state the nature of the response and the rationale for the response. The response should be made on the form shown in Illustration I.
- b) The agency must respond to an objection by the Committee in one of the following ways:
 - 1) Amend the rule to meet all of the specific objections stated by the Committee. The agency should take action to begin the rulemaking which is necessary to respond in this way.
 - 2) Repeal the rule. The agency should state the specific objections of the Committee or other reasons which are the basis of the repeal. The agency should take action to begin the rulemaking which is necessary to respond in this way.
 - 3) Refuse to amend or repeal the rule. The agency should present in its response its reasons for refusing to amend or repeal the rule.

Section 250.2000 Failure to Respond

- a) Failure of an agency to respond to an objection to a rule within 90 days of the receipt of the objection shall be deemed to be a refusal to amend or repeal the rule.
- b) Failure of an agency to complete rulemaking which was started in response to an objection within 180 days of the notice of the rulemaking shall be deemed to be a refusal to amend or repeal the rule.

Section 250.2100 Actions: Recommend Agency Action

If the Committee finds that a set of rules raises problems which require new rulemaking or some other type of action by an agency the Committee will recommend such action to the agency. In five working days after the day of the hearing, the Committee will certify the fact of such recommendation to the agency. The form used for this purpose is shown in Illustration J: A statement of the specific recommended actions, the reasons for the recommendation and the date by which the agency should respond shall be included. The Committee will monitor whether agencies take the actions which it recommends as a result of its review. Agencies should inform the Committee of actions which are being taken in response to such recommendations.

Section 250.2200 Recommend Legislation

If an agency refuses to remedy an objection to a rule or set of rules, or fails to take recommended action, the Committee may draft legislation to address the problems. Such legislation will be approved by a majority vote. It will then be introduced in either house of the General Assembly.

TITLE 1: GENERAL PROVISIONS
CHAPTER II: JOINT COMMITTEE ON ADMINISTRATIVE RULES

PART 260
COMPLAINT REVIEWS OF EXISTING RULES

Section	
260.100	Authority and Purpose
260.200	Definition of Complaint
260.300	Items to be Included in Complaints
260.400	Staff Review
260.500	Complaints About Policies Not in Rules
260.600	Staff Report
260.700	Criteria for Review
260.800	Hearing by the Committee
260.900	Objection
260.1000	Agency Response to Objection
260.1100	Failure to Respond
260.1200	Recommend Legislation
260.1300	Notice to Persons Making Complaint
ILLUSTRATION H	Certification of Objection to Existing Rules
ILLUSTRATION I	Agency Response to Joint Committee Objection to Existing Rules
ILLUSTRATION J	Certification of Recommendation

AUTHORITY: Implementing Sections 7.04 and 7.07 and authorized by Section 7.09 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1977, ch. 127, pars. 1007.04, 1007.07 and 1007.09).

SOURCE: Adopted at 3 Ill. Reg. 34, p. 219, effective August 24, 1979; rules repealed, new rules adopted and codified at 4 Ill. Reg. 49, p. 166, effective December 1, 1980; amended at 6 Ill. Reg. 9314, effective August 1, 1982.

Section 260.100 Authority and Purpose

The Committee will review rules of state agencies based on complaints received from interested persons or groups as provided in this part. This type of review of rules is authorized by Sections 7.04 and 7.07 of the Act. Review of rules by the Committee as provided in this part is in the nature of a legislative investigation and is not a prerequisite in any way for judicial review of rules.

Section 260.200 Definition of Complaint

For the purposes of this part, a complaint will consist of any written communication received by the Committee which raises questions which are related to the criteria in Section 260.700. Complaints may address one or more of the following:

- a) An existing rule of an agency.
- b) The failure of an agency to fully or properly enforce its rules.
- c) The absence of rules which are required by statute or are necessary for the proper conduct of an agency program or function.
- d) An agency policy which is applied generally, but is not embodied in the rules of the agency.

Section 260.300 Items to be Included in Complaints

- a) Complaints should be sent to the Director at this address:
Joint Committee on Administrative Rules
509 South Sixth Street, Room 500
Springfield, Illinois 62701
- b) Each complaint should include these items:
 - 1) A discussion of the issues involved.
 - 2) The names and addresses of the persons or groups making the complaint.
 - 3) The agency whose rules, policies, or practices are being questioned.
 - 4) The specific rule or set of rules involved.
 - 5) A description of the effect of the rules, policies or practices on the persons or groups making the complaint.
 - 6) A discussion of any additional facts necessary to understand the issues.
 - 7) A discussion of how the issues relate to the criteria in Section 260.700.

(Source: Amended at 6 Ill. Reg. 9314, effective August 1, 1982)

Section 260.400 Staff Review

The staff of the Committee will review each complaint. The staff may raise questions or problems as a result of its review and will discuss these questions or problems with the agency. Such staff review will be based on the criteria in Section 260.700. The staff will try to insure that the agency is aware of the substance of the complaint and the results of the staff review.

Section 260.500 Complaints About Policies Not in Rules

When a complaint is received which alleges that an agency has a policy which is not embodied in rules, the Committee will encourage the persons making the complaint to petition the agency as provided in Section 8 of the Act.

Section 260.600 Staff Report

The staff shall report the results of its review to the Committee. The staff report will present evidence of possible problems with the rules in relation to the criteria in Section 260.700. The report may include recommendations for action by the Committee. Such recommendations shall be only advisory to the Committee and shall not limit the Committee's power to take some other action.

Section 260.700 Criteria for Review

The Committee will consider these criteria in its review of rules based on a complaint:

- a) Substantive
 - 1) Is there legal authority for each part of the rules?
 - 2) Does each part of the rules comply with the statutory authority and legislative intent on which it is based, or which it is implementing or interpreting?

- 3) Does each part of the rules comply with state and federal constitutions, state and federal law, and case law?
 - 4) Do they include adequate standards for the exercise of each discretionary power which is discussed in the rules?
- b) Propriety
- 1) Is there an adequate justification and rationale for the rules and for any regulation of the public embodied in the rules?
 - 2) Has the agency reasonably considered the economic and budgetary effects of the rules as well as less costly alternatives?
 - 3) Is the language of the rules simple and clear, so that the rules can be understood by the persons and groups which they will affect?
 - 4) Are the rules free of serious technical errors, redundancies and grammatical or typographical errors, which could affect the meaning of the rules?
- c) Procedural
- 1) Were the rules adopted in compliance with the Act?
 - 2) Were the rules adopted in compliance with the requirements of the Rules Division (see 1 Ill. Adm. Code 160)?
 - 3) Were the rules adopted in compliance with any additional requirements which have been imposed on the agency by state or federal law?
 - 4) Were the rules adopted in compliance with the agency's own rules for its rulemaking process?
 - 5) Has the agency been responsive to public comments which have been made on the rules and to related requests for rulemaking?
- d) Additional
- 1) Has the agency shown that the rules are necessary? Has the agency shown that there is a public need for the regulation embodied in the rules?
 - 2) Are the rules accurate and current in relation to agency operations and programs?
 - 3) Are the rules free of overlaps and conflicts between requirements and between regulatory jurisdictions?

Section 260.300 Hearing by the Committee

Any one of the officers of the Committee may place a complaint on the agenda of the Committee to consider the rules. Such action will be based on evidence of possible problems with the rules in relation to the criteria in Section 260.700. A complaint will not be placed on the agenda if the officers find that the same issues have been previously considered by the Committee, unless the complaint reveals substantial information which was not available to the Committee at that time. At the hearing

the persons making the complaint and the agency will be allowed to present their views. If the Committee finds that other persons or groups are directly affected by the rule, such persons or groups will also be allowed to present their views orally or in writing.

Section 250.900 Objection

If the Committee finds that a rule which is the subject of a complaint does not meet one or more of the criteria in Section 250.700, it will object to the rule as provided in Section 7.07 of the Act. In five working days after the day of the hearing the Committee will certify the fact of the objection to the agency. The form used for this purpose is shown in Illustration H. A statement of specific objections to the rule shall be included.

Section 250.1000 Agency Response to Objection

- a) The agency should respond to an objection which is issued by the Committee within 90 days after it receives the statement of specific objections. The agency response should address each of the specific objections which are stated by the Committee. The agency response should be concise, but complete, and should clearly state the nature of the response and the rationale for the response. The response should be made on the form shown in Illustration I.
- b) The agency must respond to an objection by the Committee in one of the following ways:
 - 1) Amend the rule to meet all of the specific objections stated by the Committee. The agency should take action to begin the rulemaking which is necessary to respond in this way.
 - 2) Repeal the rule. The agency should state the specific objections of the Committee or other reasons which are the basis of the repeal. The agency should take action to begin the rulemaking which is necessary to respond in this way.
 - 3) Refuse to amend or repeal the rule. The agency should present in its response its reasons for refusing to amend or repeal the rule.

Section 250.1100 Failure to Respond

- a) Failure of an agency to respond to an objection to a rule within 90 days of the receipt of the objection shall be deemed to be a refusal to amend or repeal the rule.
- b) Failure of an agency to complete rulemaking which was started in response to an objection within 180 days of the notice of the rulemaking shall be deemed to be a refusal to amend or repeal the rule.

Section 250.1200 Recommend Legislation

If an agency refuses to remedy an objection to a rule or set of rules, the Committee may draft legislation to address the problems. Such legislation will be approved by a majority vote. It will then be introduced in either house of the General Assembly.

Section 260.1300 Notice to Persons Making Complaint

The Director will try to insure that the persons or groups making the complaint are aware of the result of the Committee review and the nature of the agency response.

Section 260. ILLUSTRATION H Certification of Objection to Existing Rules

The Joint Committee on Administrative Rules hereby certifies that, pursuant to Sections 7.04 and 7.07 of the Illinois Administrative Procedure Act, as amended, the Joint Committee on Administrative Rules objected on _____ (Date) to the _____ (Name of Agency)'s rules entitled or concerning _____ (Title or Subject of Rules) which appear at _____ (Page or Location Identification) in the agency's rules.

A statement of the specific objections of the Joint Committee accompanies this certification.

Please take notice that failure to respond to this objection within 90 days, or failure to complete rulemaking initiated in response to this objection within 180 days of the receipt of this Certification of Objection shall constitute a refusal to remedy the objection.

Certified _____ (Date).

(Signature)

(By: _____)

(Signature)

(Typewritten Name)

(Typewritten Name)

Chairman

Joint Committee on Administrative Rules

Subscribed and sworn to before me this _____ (Date) day of _____ (Month), 19____ (Year).

Notary Public

(See Sections 250.1800 and 260.900)

Section 260. ILLUSTRATION I Agency Response to Joint Committee Objection to Existing Rules

Date: _____

Agency: _____

Title and Subject of Rule: _____

- Response (Check One): _____
- _____ Initiate rulemaking to repeal the rule(s) to meet the Joint Committee's objection
- _____ Initiate rulemaking to amend the rule(s) to meet the Joint Committee's objection
- _____ Refusal to initiate rulemaking to remedy the Joint Committee's objection

If rulemaking will be initiated, date notice of proposed rulemaking was, or is expected to be, published in the Illinois Register: _____

Agency Response to Specific Joint Committee Objections:

(Respond to each of the specific objections raised by the Joint Committee, indicating clearly the intended action of the agency in response to each objection and the rationale for such response. Use Additional pages as necessary.)

Signature of Agency Official

(See Sections 250.1900 and 260.1000)

Section 250. ILLUSTRATION J Certification of Recommendation

The Joint Committee on Administrative Rules hereby certifies that, on ____ (Date), pursuant to Section 7.04(3), 7.04(1) and 7.08 of the Illinois Administrative Procedure Act, as amended, the Joint Committee on Administrative Rules as a result of its review of rules entitled or concerning ____ (Title or Subject of Rules) recommended rulemaking or other administrative action by ____ (Name of Agency).

A statement of the specific recommendation of the Joint Committee and reasons for the recommendation accompanies this certification.

Please take notice that failure to act to implement this recommendation within reasonable time shall be considered by the Joint Committee as a refusal to remedy the situation.

Certified ____ (Date)

(Signature)

(By: _____)

(Signature)

(Typewritten Name)

(Typewritten Name)

Chairman

Joint Committee on Administrative Rules

Subscribed and sworn to before me this ____ (Date) of ____ (Month), 19 ____ (Year).

Notary Public

(See Section 250.2100)

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE A: LEGISLATIVE AGENCIES
CHAPTER III: JOINT COMMITTEE ON ADMINISTRATIVE RULES

PART 76
ACCESS TO INFORMATION

SUBPART A: INTRODUCTION

Section

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76.20 Definitions

SUBPART B: REQUEST PROCEDURES

Section

- 76.100 Person to Whom Requests are Submitted
76.110 Form and Content of Requests

SUBPART C: PROCEDURES FOR COMMITTEE RESPONSE
TO REQUESTS FOR PUBLIC RECORDS

Section

- 76.200 Timeline for Committee Response
76.210 Types of Responses to Requests for Public Records

SUBPART D: PROCEDURES FOR APPEAL OF A DENIAL

Section

- 76.300 Appeal of a Denial
76.310 Executive Director's Response to Appeal

SUBPART E: PROCEDURES FOR PROVIDING PUBLIC
RECORDS TO REQUESTORS

Section

- 76.400 Copies of Public Records
76.410 Inspection of Records
76.420 General Materials Available from the Committee

- APPENDIX A REQUEST FOR PUBLIC RECORDS
APPENDIX B DEFERRAL OF RESPONSE TO REQUEST FOR PUBLIC RECORDS
APPENDIX C APPROVAL OF REQUEST FOR PUBLIC RECORDS
APPENDIX D PARTIAL APPROVAL OF REQUEST FOR PUBLIC RECORDS
APPENDIX E DENIAL OF REQUEST FOR PUBLIC RECORDS
APPENDIX F FOIA APPEAL: EXECUTIVE DIRECTOR'S RESPONSE
APPENDIX G FEE SCHEDULE FOR DUPLICATION OF PUBLIC RECORDS

AUTHORITY: Implementing and authorized by the Freedom of Information Act (Supp. to Ill. Rev. Stat. 1983, ch. 116, pars. 201 et seq.) and Section 4.01 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par. 1004.01)

SOURCE: Adopted at 8 Ill. Reg. 19026, effective Sept. 26, 1984. FILED

NOTE: All capitals denote statutory language.

SEP 26 1984

SUBPART A: INTRODUCTION

Section 76.10 Summary and Purpose

- a) This Part is established to implement the provisions of the Freedom of Information Act (Supp. to Ill. Rev. Stat. 1983, ch. 116, par. 201 et seq.). The purpose of this Part is to support the policy of providing public access to the public records in the possession of this Committee while, at the same time, protecting legitimate privacy interests and maintaining administrative efficiency.
- b) This Part creates a procedure by which the public may request and obtain public records. Therefore, it is being filed in accordance with Section 4.01 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1983, ch. 127, par. 1004.01)

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Section 76.20 Definitions

- a) Terms used in these rules shall have the same meaning as in the Freedom of Information Act (PA 83-1013, effective July 1, 1984, Supp. to Ill. Rev. Stat. 1983, ch. 116, par. 201 et seq.)
- b) "FOIA" means the Freedom of Information Act.
- c) "Freedom of Information Officer" means an individual responsible for receiving and responding to requests for public records.
- d) "Requestor" means a person who submits a request for public records in accordance with these rules.

FILED

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SUBPART B: REQUEST PROCEDURES

Section 76.100 Person to Whom Requests are Submitted

Requests for public records shall be submitted to the Freedom of Information Officer of the Joint Committee on Administrative Rules (Committee). Requests shall be submitted to the following address:

Freedom of Information Officer
Joint Committee on Administrative Rules
509 South Sixth Street, Room 500
Springfield, IL 62701

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Section 76.110 Form and Content of Requests

- a) Requests for public records shall be in writing. Such requests may be submitted on FOIA request forms provided by the Committee (See Appendix A of this Part).
- b) The requestor shall provide the following information in a request for public records:
 - 1) The requestor's full name, address and phone number.
 - 2) A brief description of the public records sought, being as specific as possible.
 - 3) A statement of whether the request is for inspection of public records, copies of public records, or both.
 - 4) A statement of whether the records need to be certified.

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SUBPART C: PROCEDURES FOR COMMITTEE RESPONSE
TO REQUESTS FOR PUBLIC RECORDS

Section 76.200 Timeline for Committee Response

- a) THE COMMITTEE SHALL RESPOND TO A WRITTEN REQUEST FOR PUBLIC RECORDS WITHIN 7 WORKING DAYS AFTER THE RECEIPT OF SUCH REQUEST.
- b) THE COMMITTEE MAY GIVE NOTICE TO THE REQUESTOR OF AN EXTENSION OF TIME TO RESPOND. EXTENSIONS SHALL NOT EXCEED AN ADDITIONAL 7 WORKING DAYS. SUCH AN EXTENSION IS ALLOWABLE ONLY IF WRITTEN NOTICE IS PROVIDED TO THE REQUESTOR WITHIN 7 WORKING DAYS OF THE RECEIPT OF THE REQUEST AND ONLY FOR THE REASONS IN SECTION 3(D) OF THE FOIA. SUCH NOTICE OF EXTENSION SHALL STATE THE REASONS WHY THE EXTENSION IS NECESSARY AND THE DATE BY WHICH THE RECORDS WILL BE MADE AVAILABLE OR A DENIAL WILL BE FORTHCOMING. (See Appendix B of this Part)

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Section 76.210 Types of Responses to Requests for Public Records

- a) The Freedom of Information Officer shall respond to a request for public information in one of three ways:
 - 1) Approve the request. (See Appendix C of this Part)
 - 2) Approve in part and deny in part. (See Appendix D of this Part)
 - 3) Deny the request. (See Appendix E of this Part)
- b) Upon approval of a request for public records, the Committee shall either provide the materials immediately, give notice that materials shall be made available upon payment of reproduction costs or give notice of the time and place for inspection of records.
- c) CATEGORICAL REQUESTS FOR PUBLIC RECORDS AND REPEATED REQUESTS FOR THE SAME INFORMATION BY THE SAME PERSON CONSIDERED BY THE COMMITTEE TO BE UNDULY BURDENSOME SHALL BE DENIED ONLY AFTER EXTENDING TO THE REQUESTOR AN OPPORTUNITY TO CONFER IN AN ATTEMPT TO REDUCE THE REQUESTED INFORMATION to a single request of 500 or less pages.
- d) A DENIAL OR A REQUEST FOR PUBLIC RECORDS SHALL BE MADE IN WRITING AND SHALL STATE THE REASONS FOR THE DENIAL AND THE NAMES AND TITLES OF THE INDIVIDUALS RESPONSIBLE FOR THE DECISION. DENIALS OF REQUESTS DETERMINED TO BE UNDULY BURDENSOME SHALL ALSO EXPLAIN THE EXTENT TO WHICH COMPLIANCE WITH THE REQUEST WOULD UNDULY BURDEN THE OPERATIONS OF THE COMMITTEE.
- e) FAILURE TO RESPOND TO A WRITTEN REQUEST WITHIN 7 WORKING DAYS MAY BE CONSIDERED BY THE REQUESTOR TO BE A DENIAL OF THE REQUEST.

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SUBPART D: PROCEDURES FOR APPEAL OF A DENIAL

Section 76.300 Appeal of a Denial

- a) A requestor whose request has been denied by the Freedom of Information Officer may appeal the denial to the Executive Director of the Committee. The notice of appeal shall be made in writing and sent to:

Executive Director

- Joint Committee on Administrative Rules
309 South Sixth Street, Room 500
Springfield, IL 62701

- b) The notice of appeal shall include a copy of the original request, a copy of the denial received by the requestor and a statement of the reasons why the appeal should be granted. If the appeal is filed because the requestor did not receive a response to a written request for information, the notice of appeal shall state that this is the reason for the appeal.

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Section 76.310 Executive Director's Response to Appeal

THE EXECUTIVE DIRECTOR SHALL RESPOND TO AN APPEAL WITHIN 7 WORKING DAYS AFTER RECEIVING NOTICE THEREOF. THE EXECUTIVE DIRECTOR SHALL EITHER AFFIRM THE DENIAL OR PROVIDE ACCESS TO THE REQUESTED PUBLIC RECORDS. EACH NOTICE OF THE DENIAL OF AN APPEAL BY THE EXECUTIVE DIRECTOR SHALL INFORM THE PERSON WHO IS APPEALING A DENIAL OF HIS/HER RIGHTS TO JUDICIAL REVIEW UNDER SECTION 11 OF THE FOIA. (See Appendix F of this Part)

FILED

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SUBPART E: PROCEDURES FOR PROVIDING PUBLIC
RECORDS TO REQUESTORS

Section 76.400 Copies of Public Records

- a) Copies of public records shall be provided to the requestor only upon payment of any charges which are due except as provided in paragraph (c) of this Section.
- b) Charges for the certification and copies of public records shall be assessed in accordance with the "Fee Schedule for Duplication of Public Records" (See Appendix G of this Part).
- c) Charges shall be waived if the requestor is a State agency, a constitutional officer or a member of the General Assembly. CHARGES MAY BE WAIVED IN ANY OTHER CASE WHERE THE FREEDOM OF INFORMATION OFFICER DETERMINES THAT THE WAIVER SERVES THE PUBLIC INTEREST. The Freedom of Information Officer will base this determination on the requestor's ability to pay the charges and whether the requestor's organization serves the citizens of Illinois as a whole.

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Section 76.410 Inspection of Records

- a) Records of the Committee shall be available unless otherwise exempt under Section 7 of the FOIA, during the hours of 8:30 a.m. through 5 p.m. Monday through Friday (except for State holidays) at 509 South Sixth Street, Room 500, Springfield, Illinois 62701. Requestors must contact the Freedom of Information Officer to schedule an appointment to inspect requested records.
- b) An employee of the Committee may be present throughout the inspection. A requestor will be prohibited from bringing bags, brief cases or other containers into the inspection room.
- c) Documents which the requestor wishes to have copied shall be segregated during the course of the inspection. All copying shall be done by Committee employees.

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Section 76.420 General Materials Available from the Committee

THE FOLLOWING MATERIALS SHALL BE AVAILABLE BY THE COMMITTEE WITHOUT CHARGE:

- a) A BRIEF DESCRIPTION OF THE ORGANIZATIONAL STRUCTURE AND BUDGET OF THE COMMITTEE;
- b) A BRIEF DESCRIPTION OF THE MEANS FOR REQUESTING INFORMATION AND PUBLIC RECORDS; AND
- c) A LIST OF TYPES AND CATEGORIES OF PUBLIC RECORDS MAINTAINED BY THE COMMITTEE.

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APPENDIX A REQUEST FOR PUBLIC RECORDS

To: Freedom of Information Officer
Joint Committee on Administrative Rules
509 South Sixth Street, Room 500
Springfield, IL 62701

From: _____
Name

Address

Phone Number

(Between 8:30 a.m. and 5:00 p.m., Monday - Friday)

Description of Requested Record(s):

Please indicate if you wish to inspect the above captioned records or wish a copy of them:

_____ inspection _____ copy _____ both

Do you wish to have these copies certified? _____

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APPENDIX B DEFERRAL OF RESPONSE TO REQUEST FOR PUBLIC RECORDS

From: Freedom of Information Officer
Joint Committee on Administrative Rules
509 South Sixth Street, Suite 500
Springfield, IL 62701

To:

Name

Address

Phone Number

(Between 8:30 a.m. and 5:00 p.m., Monday - Friday)

Description of Records Requested:

The response for your request dated _____ for the above captioned records must be delayed. The delay in responding to your request is for the following reason(s):

You will be notified by _____ as to the action taken on your request.

FOI Officer

Date

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APPENDIX C APPROVAL OF REQUEST FOR PUBLIC RECORDS

From: Freedom of Information Officer
Joint Committee on Administrative Rules
509 South Sixth Street, Suite 500
Springfield, IL 62701

To: _____
Name _____
Address _____

Phone Number _____

(Between 8:30 a.m. and 5:00 p.m., Monday - Friday)

Description of Records Requested:

The response for your request dated _____ for the above
captioned records has been approved.

_____ The documents you requested are enclosed.

_____ The documents will be made available within _____ days upon
payment of copying costs in the amount of _____.

_____ You may inspect the records at _____
_____ on _____
date

FOI Officer _____

Date _____

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APPENDIX D PARTIAL APPROVAL OF REQUEST OF PUBLIC RECORDS

From: Freedom of Information Officer
Joint Committee on Administrative Rules
509 South Sixth Street, Suite 500
Springfield, IL 62701

To: _____
Name _____
Address _____

Phone Number _____

(Between 8:30 a.m. and 5:00 p.m., Monday - Friday)

Description of Records Requested:

Your request dated _____ for the above captioned records has been partially approved. Those parts of your request which have been approved:

_____ are enclosed.

_____ will be made available within _____ days upon payment of copying costs in the amount of _____.

_____ may be inspected at _____
on _____.

The following portions of your request have been denied for the reasons cited:

The individual who reached the determination that the records you requested are to be denied is:

(Name and Title)

You have the right to appeal the denial of the records you have requested to the Executive Director of this Committee by submitting a written notice of appeal to:

Executive Director
Joint Committee on Administrative Rules
509 South Sixth Street, Suite 500
Springfield, IL 62701

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APPENDIX E DENIAL OF REQUEST FOR PUBLIC RECORDS

From: Freedom of Information Officer
Joint Committee on Administrative Rules
509 South Sixth Street, Suite 500
Springfield, IL 62701

To: _____
Name _____
Address _____

Phone Number _____

(Between 8:30 a.m. and 5:00 p.m., Monday - Friday)

Description of Records Requested:

Your request dated _____ for the above captioned records
has been denied:

_____ The request creates an undue burden on the public body in
accordance with Section 3(f) of the Freedom of Information
Act, and we were unable to negotiate a more reasonable
request.

_____ The materials requested are exempt under Section 7 of the
Freedom of Information Act for the following reasons:

The individual who reached the determination that access to the records you
requested is to be denied:

(Name and Title)

You have the right to appeal the denial of the records you have requested to
the Executive Director of this Committee by submitting a written notice of
appeal to:

Executive Director
Joint Committee on Administrative Rules
509 South Sixth Street, Suite 500
Springfield, IL 62701
ATTN: FOIA Appeal

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APPENDIX F FOIA APPEAL: EXECUTIVE DIRECTOR'S RESPONSE

From: Executive Director
Joint Committee on Administrative Rules
509 South Sixth Street, Suite 500
Springfield, IL 62701

To: _____
Name

Address

Phone Number

(Between 8:30 a.m. and 5:00 p.m., Monday - Friday)

Description of Records Requested:

Noted below is the action I have taken on your appeal from the denial of your request for the above captioned records:

- _____ I affirm the denial of your request made by the Freedom of Information Officer.
- _____ I overturn the denial by the FOIA Officer to the following extent and for the following reasons:

You are entitled to judicial review of any denial pursuant to Section 11 of the Freedom of Information Act.

Executive Director

Date

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APPENDIX G FEE SCHEDULE FOR DUPLICATION OF PUBLIC RECORDS

<u>Type of Duplication</u>	<u>Per Copy Charge</u>
Paper copy from paper original	\$.25
Paper copy from microfilm original	\$.50
 Certification fee	 \$1.00

Some records possessed by the Committee are in book or pamphlet form. The charge for such materials shall be the cost of such materials incurred by the Committee.

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